

# HOUSE BILL No. 1095

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-43-2-2.

**Synopsis:** Trespassing. Provides that a person commits the offense of criminal trespass if: (1) the person, who does not have a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is designated by a municipality or county enforcement authority to be an unsafe building or premises; or (2) the person knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be an unsafe building or premises; unless the person has the written permission of the owner, the owner's agent, an enforcement authority, or a court to come onto the property for purposes of performing maintenance, repair, or demolition.

**Effective:** July 1, 2021.

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January 7, 2021, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

# HOUSE BILL No. 1095

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-43-2-2, AS AMENDED BY P.L.276-2019,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 2. (a) As used in this section, "authorized person"  
4 means a person authorized by an agricultural operation to act on behalf  
5 of the agricultural operation.  
6 (b) A person who:  
7 (1) not having a contractual interest in the property, knowingly or  
8 intentionally enters the real property of another person after  
9 having been denied entry by the other person or that person's  
10 agent;  
11 (2) not having a contractual interest in the property, knowingly or  
12 intentionally refuses to leave the real property of another person  
13 after having been asked to leave by the other person or that  
14 person's agent;  
15 (3) accompanies another person in a vehicle, with knowledge that  
16 the other person knowingly or intentionally is exerting  
17 unauthorized control over the vehicle;



- 1 (4) knowingly or intentionally interferes with the possession or  
 2 use of the property of another person without the person's consent;  
 3 (5) not having a contractual interest in the property, knowingly or  
 4 intentionally enters the:  
 5 (A) property of an agricultural operation that is used for the  
 6 production, processing, propagation, packaging, cultivation,  
 7 harvesting, care, management, or storage of an animal, plant,  
 8 or other agricultural product, including any pasturage or land  
 9 used for timber management, without the consent of the owner  
 10 of the agricultural operation or an authorized person; or  
 11 (B) dwelling of another person without the person's consent;  
 12 (6) knowingly or intentionally:  
 13 (A) travels by train without lawful authority or the railroad  
 14 carrier's consent; and  
 15 (B) rides on the outside of a train or inside a passenger car,  
 16 locomotive, or freight car, including a boxcar, flatbed, or  
 17 container without lawful authority or the railroad carrier's  
 18 consent;  
 19 (7) not having a contractual interest in the property, knowingly or  
 20 intentionally enters or refuses to leave the property of another  
 21 person after having been prohibited from entering or asked to  
 22 leave the property by a law enforcement officer when the property  
 23 is:  
 24 (A) vacant real property (as defined in IC 36-7-36-5) or a  
 25 vacant structure (as defined in IC 36-7-36-6); or  
 26 (B) designated by a municipality or county enforcement  
 27 authority to be:  
 28 (i) abandoned property or an abandoned structure (as  
 29 defined in IC 36-7-36-1); or  
 30 (ii) **an unsafe building or an unsafe premises (as**  
 31 **described in IC 36-7-9);**  
 32 (8) not having a contractual interest in the property, knowingly or  
 33 intentionally enters the real property of an agricultural operation  
 34 (as defined in IC 32-30-6-1) without the permission of the owner  
 35 of the agricultural operation or an authorized person, and  
 36 knowingly or intentionally engages in conduct that causes  
 37 property damage to:  
 38 (A) the owner of or a person having a contractual interest in  
 39 the agricultural operation;  
 40 (B) the operator of the agricultural operation; or  
 41 (C) a person having personal property located on the property  
 42 of the agricultural operation; or



1 (9) knowingly or intentionally enters the property of another  
 2 person after being denied entry by a court order that has been  
 3 issued to the person or issued to the general public by  
 4 conspicuous posting on or around the premises in areas where a  
 5 person can observe the order when the property has been  
 6 designated by a municipality or county enforcement authority to  
 7 be:

8 (A) a vacant property;

9 (B) an abandoned property; **or**

10 (C) an abandoned structure (as defined in IC 36-7-36-1); **or**

11 (D) **an unsafe building or an unsafe premises (as described**  
 12 **in IC 36-7-9);**

13 commits criminal trespass, a Class A misdemeanor. However, the  
 14 offense is a Level 6 felony if it is committed on a scientific research  
 15 facility, on a facility belonging to a public utility (as defined in  
 16 IC 32-24-1-5.9(a)), on school property, or on a school bus or the person  
 17 has a prior unrelated conviction for an offense under this section  
 18 concerning the same property. The offense is a Level 6 felony, for  
 19 purposes of subdivision (8), if the property damage is more than seven  
 20 hundred fifty dollars (\$750) and less than fifty thousand dollars  
 21 (\$50,000). The offense is a Level 5 felony, for purposes of subdivision  
 22 (8), if the property damage is at least fifty thousand dollars (\$50,000).

23 (c) A person has been denied entry under subsection (b)(1) when the  
 24 person has been denied entry by means of:

25 (1) personal communication, oral or written;

26 (2) posting or exhibiting a notice at the main entrance in a manner  
 27 that is either prescribed by law or likely to come to the attention  
 28 of the public;

29 (3) a hearing authority or court order under IC 32-30-6,  
 30 IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or

31 (4) posting the property by placing identifying purple marks on  
 32 trees or posts around the area where entry is denied.

33 (d) For the purposes of subsection (c)(4):

34 (1) each purple mark must be readily visible to any person  
 35 approaching the property and must be placed:

36 (A) on a tree:

37 (i) as a vertical line of at least eight (8) inches in length and  
 38 with the bottom of the mark at least three (3) feet and not  
 39 more than five (5) feet from the ground; and

40 (ii) not more than one hundred (100) feet from the nearest  
 41 other marked tree; or

42 (B) on a post:



- 1 (i) with the mark covering at least the top two (2) inches of  
 2 the post, and with the bottom of the mark at least three (3)  
 3 feet and not more than five (5) feet six (6) inches from the  
 4 ground; and  
 5 (ii) not more than thirty-six (36) feet from the nearest other  
 6 marked post; and  
 7 (2) before a purple mark that would be visible from both sides of  
 8 a fence shared by different property owners or lessees may be  
 9 applied, all of the owners or lessees of the properties must agree  
 10 to post the properties with purple marks under subsection (c)(4).  
 11 (e) A law enforcement officer may not deny entry to property or ask  
 12 a person to leave a property under subsection (b)(7) unless there is  
 13 reasonable suspicion that criminal activity has occurred or is occurring.  
 14 (f) A person described in subsection (b)(7) **and (b)(9)** violates  
 15 subsection (b)(7) **and (b)(9)** unless the person has the written  
 16 permission of the owner, the owner's agent, an enforcement authority,  
 17 or a court to come onto the property for purposes of performing  
 18 maintenance, repair, or demolition.  
 19 (g) A person described in subsection (b)(9) violates subsection  
 20 (b)(9) unless the court that issued the order denying the person entry  
 21 grants permission for the person to come onto the property.  
 22 (h) Subsections (b), (c), and (g) do not apply to the following:  
 23 (1) A passenger on a train.  
 24 (2) An employee of a railroad carrier while engaged in the  
 25 performance of official duties.  
 26 (3) A law enforcement officer, firefighter, or emergency response  
 27 personnel while engaged in the performance of official duties.  
 28 (4) A person going on railroad property in an emergency to rescue  
 29 a person or animal from harm's way or to remove an object that  
 30 the person reasonably believes poses an imminent threat to life or  
 31 limb.  
 32 (5) A person on the station grounds or in the depot of a railroad  
 33 carrier:  
 34 (A) as a passenger; or  
 35 (B) for the purpose of transacting lawful business.  
 36 (6) A:  
 37 (A) person; or  
 38 (B) person's:  
 39 (i) family member;  
 40 (ii) invitee;  
 41 (iii) employee;  
 42 (iv) agent; or



- 1 (v) independent contractor;
- 2 going on a railroad's right-of-way for the purpose of crossing at a
- 3 private crossing site approved by the railroad carrier to obtain
- 4 access to land that the person owns, leases, or operates.
- 5 (7) A person having written permission from the railroad carrier
- 6 to go on specified railroad property.
- 7 (8) A representative of the Indiana department of transportation
- 8 while engaged in the performance of official duties.
- 9 (9) A representative of the federal Railroad Administration while
- 10 engaged in the performance of official duties.
- 11 (10) A representative of the National Transportation Safety Board
- 12 while engaged in the performance of official duties.

