



February 16, 2021

HOUSE BILL No. 1095

DIGEST OF HB 1095 (Updated February 16, 2021 12:13 pm - DI 131)

Citations Affected: IC 35-31.5; IC 35-43; IC 35-45.

Synopsis: Trespassing and aggressive harassment. 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. Provides that an individual who harasses another person with the intent to obtain property from the other person commits aggressive harassment, a Class C misdemeanor. Defines "harasses". Repeals the chapter concerning panhandling.

Effective: July 1, 2021.

Moed

January 7, 2021, read first time and referred to Committee on Courts and Criminal Code.
February 16, 2021, amended, reported — Do Pass.

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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 35-31.5-2-132.7 IS REPEALED [EFFECTIVE
2 JULY 1, 2021]. ~~Sec. 132.7. "Financial transaction", for purposes of~~
3 ~~IC 35-45-17, has the meaning set forth in IC 35-45-17-0.5.~~
- 4 SECTION 2. IC 35-31.5-2-149.5 IS ADDED TO THE INDIANA
5 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2021]: **Sec. 149.5. "Harasses" for purposes**
7 **of IC 35-45-17.1, has the meaning set forth in IC 35-45-17.1-1.**
- 8 SECTION 3. IC 35-31.5-2-225 IS REPEALED [EFFECTIVE JULY
9 1, 2021]. ~~Sec. 225. "Panhandling", for purposes of IC 35-45-17, has the~~
10 ~~meaning set forth in IC 35-45-17-1.~~
- 11 SECTION 4. IC 35-31.5-2-257.5 IS REPEALED [EFFECTIVE
12 JULY 1, 2021]. ~~Sec. 257.5. "Public monument", for purposes of~~
13 ~~IC 35-45-17, has the meaning set forth in IC 35-45-17-1.5.~~
- 14 SECTION 5. IC 35-43-2-2, AS AMENDED BY P.L.276-2019,
15 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2021]: Sec. 2. (a) As used in this section, "authorized person"
17 means a person authorized by an agricultural operation to act on behalf

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1 of the agricultural operation.

2 (b) A person who:

3 (1) not having a contractual interest in the property, knowingly or
4 intentionally enters the real property of another person after
5 having been denied entry by the other person or that person's
6 agent;

7 (2) not having a contractual interest in the property, knowingly or
8 intentionally refuses to leave the real property of another person
9 after having been asked to leave by the other person or that
10 person's agent;

11 (3) accompanies another person in a vehicle, with knowledge that
12 the other person knowingly or intentionally is exerting
13 unauthorized control over the vehicle;

14 (4) knowingly or intentionally interferes with the possession or
15 use of the property of another person without the person's consent;

16 (5) not having a contractual interest in the property, knowingly or
17 intentionally enters the:

18 (A) property of an agricultural operation that is used for the
19 production, processing, propagation, packaging, cultivation,
20 harvesting, care, management, or storage of an animal, plant,
21 or other agricultural product, including any pasturage or land
22 used for timber management, without the consent of the owner
23 of the agricultural operation or an authorized person; or

24 (B) dwelling of another person without the person's consent;

25 (6) knowingly or intentionally:

26 (A) travels by train without lawful authority or the railroad
27 carrier's consent; and

28 (B) rides on the outside of a train or inside a passenger car,
29 locomotive, or freight car, including a boxcar, flatbed, or
30 container without lawful authority or the railroad carrier's
31 consent;

32 (7) not having a contractual interest in the property, knowingly or
33 intentionally enters or refuses to leave the property of another
34 person after having been prohibited from entering or asked to
35 leave the property by a law enforcement officer when the property
36 is:

37 (A) vacant real property (as defined in IC 36-7-36-5) or a
38 vacant structure (as defined in IC 36-7-36-6); or

39 (B) designated by a municipality or county enforcement
40 authority to be:

41 (i) abandoned property or an abandoned structure (as
42 defined in IC 36-7-36-1); **or**



- 1 (ii) **an unsafe building or an unsafe premises (as**
 2 **described in IC 36-7-9);**
 3 (8) not having a contractual interest in the property, knowingly or
 4 intentionally enters the real property of an agricultural operation
 5 (as defined in IC 32-30-6-1) without the permission of the owner
 6 of the agricultural operation or an authorized person, and
 7 knowingly or intentionally engages in conduct that causes
 8 property damage to:
 9 (A) the owner of or a person having a contractual interest in
 10 the agricultural operation;
 11 (B) the operator of the agricultural operation; or
 12 (C) a person having personal property located on the property
 13 of the agricultural operation; or
 14 (9) knowingly or intentionally enters the property of another
 15 person after being denied entry by a court order that has been
 16 issued to the person or issued to the general public by
 17 conspicuous posting on or around the premises in areas where a
 18 person can observe the order when the property has been
 19 designated by a municipality or county enforcement authority to
 20 be:
 21 (A) a vacant property;
 22 (B) an abandoned property; ~~or~~
 23 (C) an abandoned structure (as defined in IC 36-7-36-1); **or**
 24 (D) **an unsafe building or an unsafe premises (as described**
 25 **in IC 36-7-9);**
 26 commits criminal trespass, a Class A misdemeanor. However, the
 27 offense is a Level 6 felony if it is committed on a scientific research
 28 facility, on a facility belonging to a public utility (as defined in
 29 IC 32-24-1-5.9(a)), on school property, or on a school bus or the person
 30 has a prior unrelated conviction for an offense under this section
 31 concerning the same property. The offense is a Level 6 felony, for
 32 purposes of subdivision (8), if the property damage is more than seven
 33 hundred fifty dollars (\$750) and less than fifty thousand dollars
 34 (\$50,000). The offense is a Level 5 felony, for purposes of subdivision
 35 (8), if the property damage is at least fifty thousand dollars (\$50,000).
 36 (c) A person has been denied entry under subsection (b)(1) when the
 37 person has been denied entry by means of:
 38 (1) personal communication, oral or written;
 39 (2) posting or exhibiting a notice at the main entrance in a manner
 40 that is either prescribed by law or likely to come to the attention
 41 of the public;
 42 (3) a hearing authority or court order under IC 32-30-6,



- 1 IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or
 2 (4) posting the property by placing identifying purple marks on
 3 trees or posts around the area where entry is denied.
- 4 (d) For the purposes of subsection (c)(4):
 5 (1) each purple mark must be readily visible to any person
 6 approaching the property and must be placed:
 7 (A) on a tree:
 8 (i) as a vertical line of at least eight (8) inches in length and
 9 with the bottom of the mark at least three (3) feet and not
 10 more than five (5) feet from the ground; and
 11 (ii) not more than one hundred (100) feet from the nearest
 12 other marked tree; or
 13 (B) on a post:
 14 (i) with the mark covering at least the top two (2) inches of
 15 the post, and with the bottom of the mark at least three (3)
 16 feet and not more than five (5) feet six (6) inches from the
 17 ground; and
 18 (ii) not more than thirty-six (36) feet from the nearest other
 19 marked post; and
 20 (2) before a purple mark that would be visible from both sides of
 21 a fence shared by different property owners or lessees may be
 22 applied, all of the owners or lessees of the properties must agree
 23 to post the properties with purple marks under subsection (c)(4).
- 24 (e) A law enforcement officer may not deny entry to property or ask
 25 a person to leave a property under subsection (b)(7) unless there is
 26 reasonable suspicion that criminal activity has occurred or is occurring.
- 27 (f) A person described in subsection (b)(7) **and (b)(9)** violates
 28 subsection (b)(7) **and (b)(9)** unless the person has the written
 29 permission of the owner, the owner's agent, an enforcement authority,
 30 or a court to come onto the property for purposes of performing
 31 maintenance, repair, or demolition.
- 32 (g) A person described in subsection (b)(9) violates subsection
 33 (b)(9) unless the court that issued the order denying the person entry
 34 grants permission for the person to come onto the property.
- 35 (h) Subsections (b), (c), and (g) do not apply to the following:
 36 (1) A passenger on a train.
 37 (2) An employee of a railroad carrier while engaged in the
 38 performance of official duties.
 39 (3) A law enforcement officer, firefighter, or emergency response
 40 personnel while engaged in the performance of official duties.
 41 (4) A person going on railroad property in an emergency to rescue
 42 a person or animal from harm's way or to remove an object that



- 1 the person reasonably believes poses an imminent threat to life or
 2 limb.
 3 (5) A person on the station grounds or in the depot of a railroad
 4 carrier:
 5 (A) as a passenger; or
 6 (B) for the purpose of transacting lawful business.
 7 (6) A:
 8 (A) person; or
 9 (B) person's:
 10 (i) family member;
 11 (ii) invitee;
 12 (iii) employee;
 13 (iv) agent; or
 14 (v) independent contractor;
 15 going on a railroad's right-of-way for the purpose of crossing at a
 16 private crossing site approved by the railroad carrier to obtain
 17 access to land that the person owns, leases, or operates.
 18 (7) A person having written permission from the railroad carrier
 19 to go on specified railroad property.
 20 (8) A representative of the Indiana department of transportation
 21 while engaged in the performance of official duties.
 22 (9) A representative of the federal Railroad Administration while
 23 engaged in the performance of official duties.
 24 (10) A representative of the National Transportation Safety Board
 25 while engaged in the performance of official duties.
 26 SECTION 6. IC 35-45-17 IS REPEALED [EFFECTIVE JULY 1,
 27 2021]. (Panhandling).
 28 SECTION 7. IC 35-45-17.1 IS ADDED TO THE INDIANA CODE
 29 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2021]:
 31 **Chapter 17.1. Aggressive Harassment**
 32 **Sec. 1. As used in this chapter, "harasses" means unwanted**
 33 **contact with a person that would cause a reasonable person to**
 34 **suffer emotional distress or fear.**
 35 **Sec. 2. An individual who harasses another person with the**
 36 **intent to obtain property from the other person commits aggressive**
 37 **harassment, a Class C misdemeanor.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1095, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-31.5-2-132.7 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 132.7. "Financial transaction"; for purposes of IC 35-45-17, has the meaning set forth in IC 35-45-17-0.5.~~

SECTION 2. IC 35-31.5-2-149.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 149.5. "Harasses" for purposes of IC 35-45-17.1, has the meaning set forth in IC 35-45-17.1-1.**

SECTION 3. IC 35-31.5-2-225 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 225. "Panhandling"; for purposes of IC 35-45-17, has the meaning set forth in IC 35-45-17-1.~~

SECTION 4. IC 35-31.5-2-257.5 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 257.5. "Public monument"; for purposes of IC 35-45-17, has the meaning set forth in IC 35-45-17-1.5."~~

Page 5, after line 12, begin a new paragraph and insert:

"SECTION 6. IC 35-45-17 IS REPEALED [EFFECTIVE JULY 1, 2021]. (Panhandling).

SECTION 7. IC 35-45-17.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 17.1. Aggressive Harassment

Sec. 1. As used in this chapter, "harasses" means unwanted contact with a person that would cause a reasonable person to suffer emotional distress or fear.

Sec. 2. An individual who harasses another person with the intent to obtain property from the other person commits aggressive harassment, a Class C misdemeanor."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1095 as introduced.)

MCNAMARA

Committee Vote: yeas 11, nays 0.

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