

HOUSE BILL No. 1155

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-6.1; IC 16-41-8; IC 35-31.5-2; IC 35-37-4; IC 35-42-2-1; IC 35-46-1.

Synopsis: Battery on a utility worker. Makes battery on a utility worker engaged in the execution of the utility worker's official duty a Level 6 felony instead of a Class B misdemeanor if the battery results in bodily injury to the utility worker and the utility worker was acting in the ordinary course of the utility worker's employment.

Effective: July 1, 2015.

Moseley

January 12, 2015, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1155

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 5-2-6.1-8, AS AMENDED BY P.L.48-2012,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 8. As used in this chapter, "violent crime" means
4 the following:
5 (1) A crime under the Indiana Code that is a felony of any kind or
6 a Class A misdemeanor that results in bodily injury or death to the
7 victim but does not include any of the following:
8 (A) A crime under IC 9-30-5 resulting from the operation of a
9 vehicle other than a motor vehicle.
10 (B) Involuntary manslaughter resulting from the operation of
11 a motor vehicle by a person who was not intoxicated
12 (IC 35-42-1-4).
13 (C) Reckless homicide resulting from the operation of a motor
14 vehicle by a person who was not intoxicated (IC 35-42-1-5).
15 (D) Criminal recklessness involving the use of a motor



- 1 vehicle, unless the offense was intentional or the person using
 2 the motor vehicle was intoxicated (IC 35-42-2-2).
 3 (E) A crime involving the operation of a motor vehicle if the
 4 driver of the motor vehicle was not charged with an offense
 5 under IC 9-30-5.
 6 (F) Battery upon a child (~~IC 35-42-2-1(a)(2)(B)~~): **less than**
 7 **fourteen (14) years of age (IC 35-42-2-1).**
 8 (G) Child molesting (IC 35-42-4-3).
 9 (H) Child seduction (IC 35-42-4-7).
 10 (2) A crime in another jurisdiction in which the elements of the
 11 crime are substantially similar to the elements of a crime that, if
 12 the crime results in death or bodily injury to the victim, would be
 13 a felony or a Class A misdemeanor if committed in Indiana.
 14 However, the term does not include any of the following:
 15 (A) A crime in another jurisdiction resulting from operating a
 16 vehicle, other than a motor vehicle, while intoxicated.
 17 (B) A crime in another jurisdiction with elements substantially
 18 similar to involuntary manslaughter resulting from the
 19 operation of a motor vehicle if the crime was committed by a
 20 person who was not intoxicated.
 21 (C) A crime in another jurisdiction with elements substantially
 22 similar to reckless homicide resulting from the operation of a
 23 motor vehicle if the crime was committed by a person who was
 24 not intoxicated.
 25 (D) A crime in another jurisdiction with elements substantially
 26 similar to criminal recklessness involving the use of a motor
 27 vehicle unless the offense was intentional or the person using
 28 the motor vehicle was intoxicated.
 29 (E) A crime involving the operation of a motor vehicle if the
 30 driver of the motor vehicle was not charged with an offense
 31 under IC 9-30-5.
 32 (3) A terrorist act.
 33 SECTION 2. IC 5-2-6.1-16, AS AMENDED BY P.L.48-2012,
 34 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2015]: Sec. 16. (a) A person eligible for assistance under
 36 section 12 of this chapter may file an application for assistance with the
 37 division if the violent crime was committed in Indiana.
 38 (b) Except as provided in subsection (e), the application must be
 39 received by the division not more than one hundred eighty (180) days
 40 after the date the crime was committed. The division may grant an
 41 extension of time for good cause shown by the claimant. However, and
 42 except as provided in subsection (e), the division may not accept an



1 application that is received more than two (2) years after the date the
2 crime was committed.

3 (c) The application must be filed in the office of the division in
4 person, through the division's web site, or by first class or certified
5 mail. If requested, the division shall assist a victim in preparing the
6 application.

7 (d) The division shall accept all applications filed in compliance
8 with this chapter. Upon receipt of a complete application, the division
9 shall promptly begin the investigation and processing of an application.

10 (e) An alleged victim of a child sex crime may submit an application
11 to the division until the victim becomes thirty-one (31) years of age.

12 (f) An alleged victim of a battery upon a child **less than fourteen**
13 **(14) years of age** under ~~IC 35-42-2-1(a)(2)(B)~~ **IC 35-42-2-1** may
14 submit an application to the division not later than five (5) years after
15 the commission of the offense.

16 SECTION 3. IC 16-41-8-1, AS AMENDED BY P.L.158-2013,
17 SECTION 241, IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) As used in this chapter,
19 "potentially disease transmitting offense" means any of the following:

20 (1) Battery **involving placing a bodily fluid or waste on another**
21 **person** ~~(IC 35-42-2-1(b)(2))~~: **(IC 35-42-2-1)**.

22 (2) An offense relating to a criminal sexual act (as defined in
23 IC 35-31.5-2-216), if sexual intercourse or other sexual conduct
24 (as defined in IC 35-31.5-2-221.5) occurred.

25 The term includes an attempt to commit an offense, if sexual
26 intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)
27 occurred, and a delinquent act that would be a crime if committed by
28 an adult.

29 (b) Except as provided in this chapter, a person may not disclose or
30 be compelled to disclose medical or epidemiological information
31 involving a communicable disease or other disease that is a danger to
32 health (as defined under rules adopted under IC 16-41-2-1). This
33 information may not be released or made public upon subpoena or
34 otherwise, except under the following circumstances:

35 (1) Release may be made of medical or epidemiologic information
36 for statistical purposes if done in a manner that does not identify
37 an individual.

38 (2) Release may be made of medical or epidemiologic information
39 with the written consent of all individuals identified in the
40 information released.

41 (3) Release may be made of medical or epidemiologic information
42 to the extent necessary to enforce public health laws, laws



1 described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9
 2 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23,
 3 IC 35-38-1-7.1, and IC 35-45-21-1 or to protect the health or life
 4 of a named party.

5 (4) Release may be made of the medical information of a person
 6 in accordance with this chapter.

7 (c) Except as provided in this chapter, a person responsible for
 8 recording, reporting, or maintaining information required to be reported
 9 under IC 16-41-2 who recklessly, knowingly, or intentionally discloses
 10 or fails to protect medical or epidemiologic information classified as
 11 confidential under this section commits a Class A misdemeanor.

12 (d) In addition to subsection (c), a public employee who violates this
 13 section is subject to discharge or other disciplinary action under the
 14 personnel rules of the agency that employs the employee.

15 (e) Release shall be made of the medical records concerning an
 16 individual to:

- 17 (1) the individual;
- 18 (2) a person authorized in writing by the individual to receive the
 19 medical records; or
- 20 (3) a coroner under IC 36-2-14-21.

21 (f) An individual may voluntarily disclose information about the
 22 individual's communicable disease.

23 (g) The provisions of this section regarding confidentiality apply to
 24 information obtained under IC 16-41-1 through IC 16-41-16.

25 SECTION 4. IC 16-41-8-5, AS AMENDED BY P.L.158-2013,
 26 SECTION 242, IS AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) This section does not apply
 28 to medical testing of an individual for whom an indictment or
 29 information is filed for a sex crime and for whom a request to have the
 30 individual tested under section 6 of this chapter is filed.

31 (b) The following definitions apply throughout this section:

- 32 (1) "Bodily fluid" means blood, human waste, or any other bodily
 33 fluid.
- 34 (2) "Dangerous disease" means any of the following:
 - 35 (A) Chancroid.
 - 36 (B) Chlamydia.
 - 37 (C) Gonorrhea.
 - 38 (D) Hepatitis.
 - 39 (E) Human immunodeficiency virus (HIV).
 - 40 (F) Lymphogranuloma venereum.
 - 41 (G) Syphilis.
 - 42 (H) Tuberculosis.



1 (3) "Offense involving the transmission of a bodily fluid" means
2 any offense (including a delinquent act that would be a crime if
3 committed by an adult) in which a bodily fluid is transmitted from
4 the defendant to the victim in connection with the commission of
5 the offense.

6 (c) This subsection applies only to a defendant who has been
7 charged with a potentially disease transmitting offense. At the request
8 of an alleged victim of the offense, the parent, guardian, or custodian
9 of an alleged victim who is less than eighteen (18) years of age, or the
10 parent, guardian, or custodian of an alleged victim who is an
11 endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney
12 shall petition a court to order a defendant charged with the commission
13 of a potentially disease transmitting offense to submit to a screening
14 test to determine whether the defendant is infected with a dangerous
15 disease. In the petition, the prosecuting attorney must set forth
16 information demonstrating that the defendant has committed a
17 potentially disease transmitting offense. The court shall set the matter
18 for hearing not later than forty-eight (48) hours after the prosecuting
19 attorney files a petition under this subsection. The alleged victim, the
20 parent, guardian, or custodian of an alleged victim who is less than
21 eighteen (18) years of age, and the parent, guardian, or custodian of an
22 alleged victim who is an endangered adult (as defined in IC 12-10-3-2)
23 are entitled to receive notice of the hearing and are entitled to attend
24 the hearing. The defendant and the defendant's counsel are entitled to
25 receive notice of the hearing and are entitled to attend the hearing. If,
26 following the hearing, the court finds probable cause to believe that the
27 defendant has committed a potentially disease transmitting offense, the
28 court may order the defendant to submit to a screening test for one (1)
29 or more dangerous diseases. If the defendant is charged with battery
30 **involving placing a bodily fluid or waste on another person**
31 ~~(IC 35-42-2-1(b)(2))~~; **(IC 35-42-2-1)**, the court may limit testing under
32 this subsection to a test only for human immunodeficiency virus (HIV).
33 However, the court may order additional testing for human
34 immunodeficiency virus (HIV) as may be medically appropriate. The
35 court shall take actions to ensure the confidentiality of evidence
36 introduced at the hearing.

37 (d) This subsection applies only to a defendant who has been
38 charged with an offense involving the transmission of a bodily fluid. At
39 the request of an alleged victim of the offense, the parent, guardian, or
40 custodian of an alleged victim who is less than eighteen (18) years of
41 age, or the parent, guardian, or custodian of an alleged victim who is
42 an endangered adult (as defined in IC 12-10-3-2), the prosecuting



1 attorney shall petition a court to order a defendant charged with the
2 commission of an offense involving the transmission of a bodily fluid
3 to submit to a screening test to determine whether the defendant is
4 infected with a dangerous disease. In the petition, the prosecuting
5 attorney must set forth information demonstrating that:

6 (1) the defendant has committed an offense; and

7 (2) a bodily fluid was transmitted from the defendant to the victim
8 in connection with the commission of the offense.

9 The court shall set the matter for hearing not later than forty-eight (48)
10 hours after the prosecuting attorney files a petition under this
11 subsection. The alleged victim of the offense, the parent, guardian, or
12 custodian of an alleged victim who is less than eighteen (18) years of
13 age, and the parent, guardian, or custodian of an alleged victim who is
14 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive
15 notice of the hearing and are entitled to attend the hearing. The
16 defendant and the defendant's counsel are entitled to receive notice of
17 the hearing and are entitled to attend the hearing. If, following the
18 hearing, the court finds probable cause to believe that the defendant has
19 committed an offense and that a bodily fluid was transmitted from the
20 defendant to the alleged victim in connection with the commission of
21 the offense, the court may order the defendant to submit to a screening
22 test for one (1) or more dangerous diseases. If the defendant is charged
23 with battery **involving placing a bodily fluid or waste on another**
24 **person** (~~IC 35-42-2-1(b)(2)~~); (**IC 35-42-2-1**), the court may limit
25 testing under this subsection to a test only for human
26 immunodeficiency virus (HIV). However, the court may order
27 additional testing for human immunodeficiency virus (HIV) as may be
28 medically appropriate. The court shall take actions to ensure the
29 confidentiality of evidence introduced at the hearing.

30 (e) The testimonial privileges applying to communication between
31 a husband and wife and between a health care provider and the health
32 care provider's patient are not sufficient grounds for not testifying or
33 providing other information at a hearing conducted in accordance with
34 this section.

35 (f) A health care provider (as defined in IC 16-18-2-163) who
36 discloses information that must be disclosed to comply with this
37 section is immune from civil and criminal liability under Indiana
38 statutes that protect patient privacy and confidentiality.

39 (g) The results of a screening test conducted under this section shall
40 be kept confidential if the defendant ordered to submit to the screening
41 test under this section has not been convicted of the potentially disease
42 transmitting offense or offense involving the transmission of a bodily



1 fluid with which the defendant is charged. The results may not be made
 2 available to any person or public or private agency other than the
 3 following:

- 4 (1) The defendant and the defendant's counsel.
 5 (2) The prosecuting attorney.
 6 (3) The department of correction or the penal facility, juvenile
 7 detention facility, or secure private facility where the defendant
 8 is housed.
 9 (4) The alleged victim or the parent, guardian, or custodian of an
 10 alleged victim who is less than eighteen (18) years of age, or the
 11 parent, guardian, or custodian of an alleged victim who is an
 12 endangered adult (as defined in IC 12-10-3-2), and the alleged
 13 victim's counsel.

14 The results of a screening test conducted under this section may not be
 15 admitted against a defendant in a criminal proceeding or against a child
 16 in a juvenile delinquency proceeding.

17 (h) As soon as practicable after a screening test ordered under this
 18 section has been conducted, the alleged victim or the parent, guardian,
 19 or custodian of an alleged victim who is less than eighteen (18) years
 20 of age, or the parent, guardian, or custodian of an alleged victim who
 21 is an endangered adult (as defined in IC 12-10-3-2), and the victim's
 22 counsel shall be notified of the results of the test.

23 (i) An alleged victim may disclose the results of a screening test to
 24 which a defendant is ordered to submit under this section to an
 25 individual or organization to protect the health and safety of or to seek
 26 compensation for:

- 27 (1) the alleged victim;
 28 (2) the alleged victim's sexual partner; or
 29 (3) the alleged victim's family.

30 (j) The court shall order a petition filed and any order entered under
 31 this section sealed.

32 (k) A person that knowingly or intentionally:

- 33 (1) receives notification or disclosure of the results of a screening
 34 test under this section; and
 35 (2) discloses the results of the screening test in violation of this
 36 section;

37 commits a Class B misdemeanor.

38 SECTION 5. IC 35-31.5-2-67 IS REPEALED [EFFECTIVE JULY
 39 1, 2015]. Sec. 67: "Correctional professional", for purposes of
 40 IC 35-42-2-1, has the meaning set forth in IC 35-42-2-1(b)(2).

41 SECTION 6. IC 35-31.5-2-185, AS AMENDED BY P.L.172-2013,
 42 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2015]: Sec. 185. (a) "Law enforcement officer" means:
 2 (1) a police officer (including a correctional police officer),
 3 sheriff, constable, marshal, prosecuting attorney, special
 4 prosecuting attorney, special deputy prosecuting attorney, the
 5 securities commissioner, or the inspector general;
 6 (2) a deputy of any of those persons;
 7 (3) an investigator for a prosecuting attorney or for the inspector
 8 general;
 9 (4) a conservation officer;
 10 (5) an enforcement officer of the alcohol and tobacco
 11 commission;
 12 (6) an enforcement officer of the securities division of the office
 13 of the secretary of state; or
 14 (7) a gaming agent employed under IC 4-33-4.5 or a gaming
 15 control officer employed by the gaming control division under
 16 IC 4-33-20.
- 17 (b) "Law enforcement officer", for purposes of IC 35-42-2-1,
 18 includes an alcoholic beverage enforcement officer, as set forth in
 19 ~~IC 35-42-2-1(b)(1)~~. **IC 35-42-2-1.**
- 20 (c) "Law enforcement officer", for purposes of IC 35-45-15,
 21 includes a federal enforcement officer, as set forth in IC 35-45-15-3.
- 22 (d) "Law enforcement officer", for purposes of IC 35-44.1-3-1 and
 23 IC 35-44.1-3-2, includes a school resource officer (as defined in
 24 IC 20-26-18.2-1) and a school corporation police officer appointed
 25 under IC 20-26-16.
- 26 SECTION 7. IC 35-31.5-2-260.2 IS ADDED TO THE INDIANA
 27 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 28 [EFFECTIVE JULY 1, 2015]: **Sec. 260.2. "Public safety official", for**
 29 **purposes of IC 35-42-2-1, has the meaning set forth in**
 30 **IC 35-42-2-1(a).**
- 31 SECTION 8. IC 35-31.5-2-344.5 IS ADDED TO THE INDIANA
 32 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 33 [EFFECTIVE JULY 1, 2015]: **Sec. 344.5. "Utility worker", for**
 34 **purposes of IC 35-42-2-1, has the meaning set forth in**
 35 **IC 35-42-2-1(b).**
- 36 SECTION 9. IC 35-37-4-6, AS AMENDED BY P.L.28-2011,
 37 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2015]: Sec. 6. (a) This section applies to a criminal action
 39 involving the following offenses where the victim is a protected person
 40 under subsection (c)(1) or (c)(2):
 41 (1) Sex crimes (IC 35-42-4).
 42 (2) Battery upon a child **less than fourteen (14) years of age**



- 1 ~~(IC 35-42-2-1(a)(2)(B))~~: **(IC 35-42-2-1)**.
 2 (3) Kidnapping and confinement (IC 35-42-3).
 3 (4) Incest (IC 35-46-1-3).
 4 (5) Neglect of a dependent (IC 35-46-1-4).
 5 (6) Human and sexual trafficking crimes (IC 35-42-3.5).
 6 (7) An attempt under IC 35-41-5-1 for an offense listed in
 7 subdivisions (1) through (6).
 8 (b) This section applies to a criminal action involving the following
 9 offenses where the victim is a protected person under subsection (c)(3):
 10 (1) Exploitation of a dependent or endangered adult
 11 (IC 35-46-1-12).
 12 (2) A sex crime (IC 35-42-4).
 13 (3) Battery (IC 35-42-2-1).
 14 (4) Kidnapping, confinement, or interference with custody
 15 (IC 35-42-3).
 16 (5) Home improvement fraud (IC 35-43-6).
 17 (6) Fraud (IC 35-43-5).
 18 (7) Identity deception (IC 35-43-5-3.5).
 19 (8) Synthetic identity deception (IC 35-43-5-3.8).
 20 (9) Theft (IC 35-43-4-2).
 21 (10) Conversion (IC 35-43-4-3).
 22 (11) Neglect of a dependent (IC 35-46-1-4).
 23 (12) Human and sexual trafficking crimes (IC 35-42-3.5).
 24 (c) As used in this section, "protected person" means:
 25 (1) a child who is less than fourteen (14) years of age;
 26 (2) an individual with a mental disability who has a disability
 27 attributable to an impairment of general intellectual functioning
 28 or adaptive behavior that:
 29 (A) is manifested before the individual is eighteen (18) years
 30 of age;
 31 (B) is likely to continue indefinitely;
 32 (C) constitutes a substantial impairment of the individual's
 33 ability to function normally in society; and
 34 (D) reflects the individual's need for a combination and
 35 sequence of special, interdisciplinary, or generic care,
 36 treatment, or other services that are of lifelong or extended
 37 duration and are individually planned and coordinated; or
 38 (3) an individual who is:
 39 (A) at least eighteen (18) years of age; and
 40 (B) incapable by reason of mental illness, mental retardation,
 41 dementia, or other physical or mental incapacity of:
 42 (i) managing or directing the management of the individual's



- 1 property; or
 2 (ii) providing or directing the provision of self-care.
 3 (d) A statement or videotape that:
 4 (1) is made by a person who at the time of trial is a protected
 5 person;
 6 (2) concerns an act that is a material element of an offense listed
 7 in subsection (a) or (b) that was allegedly committed against the
 8 person; and
 9 (3) is not otherwise admissible in evidence;
 10 is admissible in evidence in a criminal action for an offense listed in
 11 subsection (a) or (b) if the requirements of subsection (e) are met.
 12 (e) A statement or videotape described in subsection (d) is
 13 admissible in evidence in a criminal action listed in subsection (a) or
 14 (b) if, after notice to the defendant of a hearing and of the defendant's
 15 right to be present, all of the following conditions are met:
 16 (1) The court finds, in a hearing:
 17 (A) conducted outside the presence of the jury; and
 18 (B) attended by the protected person in person or by using
 19 closed circuit television testimony as described in section 8(f)
 20 and 8(g) of this chapter;
 21 that the time, content, and circumstances of the statement or
 22 videotape provide sufficient indications of reliability.
 23 (2) The protected person:
 24 (A) testifies at the trial; or
 25 (B) is found by the court to be unavailable as a witness for one
 26 (1) of the following reasons:
 27 (i) From the testimony of a psychiatrist, physician, or
 28 psychologist, and other evidence, if any, the court finds that
 29 the protected person's testifying in the physical presence of
 30 the defendant will cause the protected person to suffer
 31 serious emotional distress such that the protected person
 32 cannot reasonably communicate.
 33 (ii) The protected person cannot participate in the trial for
 34 medical reasons.
 35 (iii) The court has determined that the protected person is
 36 incapable of understanding the nature and obligation of an
 37 oath.
 38 (f) If a protected person is unavailable to testify at the trial for a
 39 reason listed in subsection (e)(2)(B), a statement or videotape may be
 40 admitted in evidence under this section only if the protected person was
 41 available for cross-examination:
 42 (1) at the hearing described in subsection (e)(1); or



- 1 (2) when the statement or videotape was made.
- 2 (g) A statement or videotape may not be admitted in evidence under
3 this section unless the prosecuting attorney informs the defendant and
4 the defendant's attorney at least ten (10) days before the trial of:
- 5 (1) the prosecuting attorney's intention to introduce the statement
6 or videotape in evidence; and
7 (2) the content of the statement or videotape.
- 8 (h) If a statement or videotape is admitted in evidence under this
9 section, the court shall instruct the jury that it is for the jury to
10 determine the weight and credit to be given the statement or videotape
11 and that, in making that determination, the jury shall consider the
12 following:
- 13 (1) The mental and physical age of the person making the
14 statement or videotape.
15 (2) The nature of the statement or videotape.
16 (3) The circumstances under which the statement or videotape
17 was made.
18 (4) Other relevant factors.
- 19 (i) If a statement or videotape described in subsection (d) is
20 admitted into evidence under this section, a defendant may introduce
21 a:
- 22 (1) transcript; or
23 (2) videotape;
24 of the hearing held under subsection (e)(1) into evidence at trial.
- 25 SECTION 10. IC 35-37-4-8, AS AMENDED BY P.L.173-2006,
26 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2015]: Sec. 8. (a) This section applies to a criminal action
28 under the following:
- 29 (1) Sex crimes (IC 35-42-4).
30 (2) Battery upon a child **less than fourteen (14) years of age**
31 ~~(IC 35-42-2-1(a)(2)(B))~~. **(IC 35-42-2-1)**.
32 (3) Kidnapping and confinement (IC 35-42-3).
33 (4) Incest (IC 35-46-1-3).
34 (5) Neglect of a dependent (IC 35-46-1-4).
35 (6) Human and sexual trafficking crimes (IC 35-42-3.5).
36 (7) An attempt under IC 35-41-5-1 for an offense listed in
37 subdivisions (1) through (6).
- 38 (b) As used in this section, "protected person" has the meaning set
39 forth in section 6 of this chapter.
- 40 (c) On the motion of the prosecuting attorney, the court may order
41 that the testimony of a protected person be taken in a room other than
42 the courtroom, and that the questioning of the protected person by the



1 prosecution and the defense be transmitted using a two-way closed
2 circuit television arrangement that:

3 (1) allows the protected person to see the accused and the trier of
4 fact; and

5 (2) allows the accused and the trier of fact to see and hear the
6 protected person.

7 (d) On the motion of the prosecuting attorney or the defendant, the
8 court may order that the testimony of a protected person be videotaped
9 for use at trial. The videotaping of the testimony of a protected person
10 under this subsection must meet the requirements of subsection (c).

11 (e) The court may not make an order under subsection (c) or (d)
12 unless:

13 (1) the testimony to be taken is the testimony of a protected
14 person who:

15 (A) is the alleged victim of an offense listed in subsection (a)
16 for which the defendant is being tried or is a witness in a trial
17 for an offense listed in subsection (a); and

18 (B) is found by the court to be a protected person who should
19 be permitted to testify outside the courtroom because:

20 (i) the court finds from the testimony of a psychiatrist,
21 physician, or psychologist and any other evidence that the
22 protected person's testifying in the physical presence of the
23 defendant would cause the protected person to suffer serious
24 emotional harm and the court finds that the protected person
25 could not reasonably communicate in the physical presence
26 of the defendant to the trier of fact;

27 (ii) a physician has certified that the protected person cannot
28 be present in the courtroom for medical reasons; or

29 (iii) evidence has been introduced concerning the effect of
30 the protected person's testifying in the physical presence of
31 the defendant, and the court finds that it is more likely than
32 not that the protected person's testifying in the physical
33 presence of the defendant creates a substantial likelihood of
34 emotional or mental harm to the protected person;

35 (2) the prosecuting attorney has informed the defendant and the
36 defendant's attorney of the intention to have the protected person
37 testify outside the courtroom; and

38 (3) the prosecuting attorney informed the defendant and the
39 defendant's attorney under subdivision (2) at least ten (10) days
40 before the trial of the prosecuting attorney's intention to have the
41 protected person testify outside the courtroom.

42 (f) If the court makes an order under subsection (c), only the



1 following persons may be in the same room as the protected person
2 during the protected person's testimony:

- 3 (1) A defense attorney if:
4 (A) the defendant is represented by the defense attorney; and
5 (B) the prosecuting attorney is also in the same room.
6 (2) The prosecuting attorney if:
7 (A) the defendant is represented by a defense attorney; and
8 (B) the defense attorney is also in the same room.
9 (3) Persons necessary to operate the closed circuit television
10 equipment.
11 (4) Persons whose presence the court finds will contribute to the
12 protected person's well-being.
13 (5) A court bailiff or court representative.

14 (g) If the court makes an order under subsection (d), only the
15 following persons may be in the same room as the protected person
16 during the protected person's videotaped testimony:

- 17 (1) The judge.
18 (2) The prosecuting attorney.
19 (3) The defendant's attorney (or the defendant, if the defendant is
20 not represented by an attorney).
21 (4) Persons necessary to operate the electronic equipment.
22 (5) The court reporter.
23 (6) Persons whose presence the court finds will contribute to the
24 protected person's well-being.
25 (7) The defendant, who can observe and hear the testimony of the
26 protected person with the protected person being able to observe
27 or hear the defendant. However, if the defendant is not
28 represented by an attorney, the defendant may question the
29 protected person.

30 (h) If the court makes an order under subsection (c) or (d), only the
31 following persons may question the protected person:

- 32 (1) The prosecuting attorney.
33 (2) The defendant's attorney (or the defendant, if the defendant is
34 not represented by an attorney).
35 (3) The judge.

36 SECTION 11. IC 35-42-2-1, AS AMENDED BY P.L.147-2014,
37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2015]: Sec. 1. (a) As used in this section, "public safety
39 official" means:

- 40 (1) a law enforcement officer, including an alcoholic beverage
41 enforcement officer;
42 (2) an employee of a penal facility or a juvenile detention facility



- 1 (as defined in IC 31-9-2-71);
 2 (3) an employee of the department of correction;
 3 (4) a probation officer;
 4 (5) a parole officer;
 5 (6) a community corrections worker;
 6 (7) a home detention officer;
 7 (8) a department of child services employee;
 8 (9) a firefighter;
 9 (10) an emergency medical services provider; or
 10 (11) a judicial officer.

11 **(b) As used in this section, "utility worker" means an individual**
 12 **employed by:**

- 13 **(1) a public utility (as defined in IC 8-1-2-1(a));**
 14 **(2) a municipality owned utility (as defined in IC 8-1-2-1(h));**
 15 **(3) a cable or satellite television company;**
 16 **(4) a telecommunications carrier;**
 17 **(5) an electric cooperative;**
 18 **(6) a telephone cooperative; or**
 19 **(7) a nonprofit utility.**

20 ~~(b)~~ **(c)** Except as provided in subsections ~~(e)~~ **(d)** through ~~(j)~~ **(k)**, a
 21 person who knowingly or intentionally:

- 22 (1) touches another person in a rude, insolent, or angry manner;
 23 or
 24 (2) in a rude, insolent, or angry manner places any bodily fluid or
 25 waste on another person;

26 commits battery, a Class B misdemeanor.

27 ~~(e)~~ **(d)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~
 28 **(c)(2)** is a Class A misdemeanor if it results in bodily injury to any
 29 other person.

30 ~~(d)~~ **(e)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~
 31 **(c)(2)** is a Level 6 felony if one (1) or more of the following apply:

- 32 (1) The offense results in moderate bodily injury to any other
 33 person.
 34 (2) The offense is committed against a public safety official while
 35 the official is engaged in the official's official duty.
 36 (3) The offense is committed against a person less than fourteen
 37 (14) years of age and is committed by a person at least eighteen
 38 (18) years of age.
 39 (4) The offense is committed against a person of any age who has
 40 a mental or physical disability and is committed by a person
 41 having the care of the person with the mental or physical
 42 disability, whether the care is assumed voluntarily or because of



1 a legal obligation.

2 (5) The offense is committed against an endangered adult (as
3 defined in IC 12-10-3-2).

4 (6) The offense is committed against a family or household
5 member (as defined in IC 35-31.5-2-128) if the person who
6 committed the offense:

7 (A) is at least eighteen (18) years of age; and

8 (B) committed the offense in the physical presence of a child
9 less than sixteen (16) years of age, knowing that the child was
10 present and might be able to see or hear the offense.

11 **(7) The offense is committed against a utility worker while the
12 utility worker is acting in the ordinary course of the worker's
13 employment.**

14 ~~(e)~~ **(f)** The offense described in subsection ~~(b)(2)~~ **(c)(2)** is a Level
15 6 felony if the person knew or recklessly failed to know that the bodily
16 fluid or waste placed on another person was infected with hepatitis,
17 tuberculosis, or human immunodeficiency virus.

18 ~~(f)~~ **(g)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~
19 **(c)(2)** is a Level 5 felony if one (1) or more of the following apply:

20 (1) The offense results in serious bodily injury to another person.

21 (2) The offense is committed with a deadly weapon.

22 (3) The offense results in bodily injury to a pregnant woman if the
23 person knew of the pregnancy.

24 (4) The person has a previous conviction for battery against the
25 same victim.

26 (5) The offense results in bodily injury to one (1) or more of the
27 following:

28 (A) A public safety official while the official is engaged in the
29 official's official duties.

30 (B) A person less than fourteen (14) years of age if the offense
31 is committed by a person at least eighteen (18) years of age.

32 (C) A person who has a mental or physical disability if the
33 offense is committed by an individual having care of the
34 person with the disability, regardless of whether the care is
35 assumed voluntarily or because of a legal obligation.

36 (D) An endangered adult (as defined in IC 12-10-3-2).

37 ~~(g)~~ **(h)** The offense described in subsection ~~(b)(2)~~ **(c)(2)** is a Level
38 5 felony if:

39 (1) the person knew or recklessly failed to know that the bodily
40 fluid or waste placed on another person was infected with
41 hepatitis, tuberculosis, or human immunodeficiency virus; and

42 (2) the person placed the bodily fluid or waste on a public safety



1 official or a utility worker.

2 ~~(h)~~ (i) The offense described in subsection ~~(b)(1)~~ (c)(1) or ~~(b)(2)~~
3 (c)(2) is a Level 4 felony if it results in serious bodily injury to an
4 endangered adult (as defined in IC 12-10-3-2).

5 ~~(i)~~ (j) The offense described in subsection ~~(b)(1)~~ (c)(1) or ~~(b)(2)~~
6 (c)(2) is a Level 3 felony if it results in serious bodily injury to a person
7 less than fourteen (14) years of age if the offense is committed by a
8 person at least eighteen (18) years of age.

9 ~~(j)~~ (k) The offense described in subsection ~~(b)(1)~~ (c)(1) or ~~(b)(2)~~
10 (c)(2) is a Level 2 felony if it results in the death of one (1) or more of
11 the following:

12 (1) A person less than fourteen (14) years of age if the offense is
13 committed by a person at least eighteen (18) years of age.

14 (2) An endangered adult (as defined in IC 12-10-3-2).

15 SECTION 12. IC 35-46-1-13, AS AMENDED BY P.L.153-2011,
16 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2015]: Sec. 13. (a) A person who:

18 (1) believes or has reason to believe that an endangered adult or
19 **person of any age who has a mental or physical disability** is
20 the victim of battery, neglect, or exploitation as prohibited by this
21 chapter ~~IC 35-42-2-1(a)(2)(C)~~, or ~~IC 35-42-2-1(a)(2)(E)~~;
22 **IC 35-42-2-1**; and

23 (2) knowingly fails to report the facts supporting that belief to the
24 division of disability and rehabilitative services, the division of
25 aging, the adult protective services unit designated under
26 IC 12-10-3, or a law enforcement agency having jurisdiction over
27 battery, neglect, or exploitation of an endangered adult;

28 commits a Class B misdemeanor.

29 (b) An officer or employee of the division or adult protective
30 services unit who unlawfully discloses information contained in the
31 records of the division of aging under IC 12-10-3-12 through
32 IC 12-10-3-15 commits a Class C infraction.

33 (c) A law enforcement agency that receives a report that an
34 endangered adult or **person of any age who has a mental or physical**
35 **disability** is or may be a victim of battery, neglect, or exploitation as
36 prohibited by this chapter ~~IC 35-42-2-1(a)(2)(C)~~, or
37 ~~IC 35-42-2-1(a)(2)(E)~~ **IC 35-42-2-1** shall immediately communicate
38 the report to the adult protective services unit designated under
39 IC 12-10-3.

40 (d) An individual who discharges, demotes, transfers, prepares a
41 negative work performance evaluation, reduces benefits, pay, or work
42 privileges, or takes other action to retaliate against an individual who



1 in good faith makes a report under IC 12-10-3-9 concerning an
2 endangered individual commits a Class A infraction.

3 SECTION 13. IC 35-46-1-14, AS AMENDED BY P.L.2-2005,
4 SECTION 127, IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2015]: Sec. 14. Any person acting in good faith
6 who:

7 (1) makes or causes to be made a report of neglect, battery, or
8 exploitation under this chapter ~~IC 35-42-2-1(a)(2)(C)~~; or
9 ~~IC 35-42-2-1(a)(2)(E)~~; **IC 35-42-2-1 concerning an endangered**
10 **adult or person of any age who has a mental or physical**
11 **disability;**

12 (2) makes or causes to be made photographs or x-rays of a victim
13 of suspected neglect or battery of an endangered adult or a
14 dependent eighteen (18) years of age or older; or

15 (3) participates in any official proceeding or a proceeding
16 resulting from a report of neglect, battery, or exploitation of an
17 endangered adult or a dependent eighteen (18) years of age or
18 older relating to the subject matter of that report;

19 is immune from any civil or criminal liability that might otherwise be
20 imposed because of these actions. However, this section does not apply
21 to a person accused of neglect, battery, or exploitation of an
22 endangered adult or a dependent eighteen (18) years of age or older.

