

HOUSE BILL No. 1160

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2-57.5; IC 35-42-4.

Synopsis: Consent. Defines "consent" for an offense involving a sex crime. Provides that a person commits rape if the person engages in sexual activity with another person and the other person: (1) has not given consent; or (2) submits to the sexual activity under the belief that the person committing the act is someone the victim knows, other than the person committing the act, and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the person.

Effective: July 1, 2020.

**Errington, Negele, Campbell,
Schaibley**

January 8, 2020, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1160

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 35-31.5-2-57.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2020]: **Sec. 57.5. "Consent", for purposes of**
4 **IC 35-42-4, has the meaning set forth in IC 35-42-4-0.5.**
5 SECTION 2. IC 35-42-4-0.5 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2020]: **Sec. 0.5. (a) As used in this chapter, "consent" means a**
8 **freely given agreement to the conduct at issue by a competent**
9 **person.**
10 **(b) A person cannot consent if:**
11 **(1) the person expresses a lack of consent through words or**
12 **conduct;**
13 **(2) the person is sleeping, unconscious, or incompetent; or**
14 **(3) the force to the person causes or is likely to cause death or**
15 **serious bodily injury.**
16 **All of the surrounding circumstances shall be considered in**
17 **determining whether a person gave consent.**



1 **(c) The following does not constitute consent:**

- 2 **(1) Lack of verbal or physical resistance.**
 3 **(2) Submission resulting from the use of force, threat of force,**
 4 **or placing another person in fear.**
 5 **(3) A current or previous marital, dating, social, or sexual**
 6 **relationship by itself.**
 7 **(4) The manner of a person's dress.**

8 SECTION 3. IC 35-42-4-1, AS AMENDED BY P.L.168-2014,
 9 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 1. (a) Except as provided in subsection (b), a
 11 person who knowingly or intentionally has sexual intercourse with
 12 another person or knowingly or intentionally causes another person to
 13 perform or submit to other sexual conduct (as defined in
 14 IC 35-31.5-2-221.5) when:

- 15 (1) the other person is compelled by force or imminent threat of
 16 force;
 17 (2) the other person is unaware that the sexual intercourse or other
 18 sexual conduct (as defined in IC 35-31.5-2-221.5) is occurring; ~~or~~
 19 **(3) the other person has not given consent;**
 20 **(4) the other person submits to the sexual intercourse or other**
 21 **sexual conduct (as defined by IC 35-31.5-2-221.5) under the**
 22 **belief that the person committing the act is someone the**
 23 **victim knows, other than the person committing the act, and**
 24 **such belief is intentionally induced by any artifice, pretense,**
 25 **or concealment practiced by the person; or**
 26 ~~(5)~~ **(5) the other person is so mentally disabled or deficient that**
 27 **consent to sexual intercourse or other sexual conduct (as defined**
 28 **in IC 35-31.5-2-221.5) cannot be given;**

29 commits rape, a Level 3 felony.

30 (b) An offense described in subsection (a) is a Level 1 felony if:

- 31 (1) it is committed by using or threatening the use of deadly force;
 32 (2) it is committed while armed with a deadly weapon;
 33 (3) it results in serious bodily injury to a person other than a
 34 defendant; or
 35 (4) the commission of the offense is facilitated by furnishing the
 36 victim, without the victim's knowledge, with a drug (as defined in
 37 IC 16-42-19-2(1)) or a controlled substance (as defined in
 38 IC 35-48-1-9) or knowing that the victim was furnished with the
 39 drug or controlled substance without the victim's knowledge.

