

# HOUSE BILL No. 1415

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-31.5-2-78; IC 35-33; IC 35-38-1-33; IC 35-42-2-1.3; IC 35-46-1-15.1.

**Synopsis:** Laura's law. To honor the memory of Laura Russell, provides that if a court denies a request for an arrest warrant involving a crime of domestic violence, a prosecuting attorney may petition a court to hold an ex parte hearing to present additional evidence to establish probable cause. Requires a court to hold the ex parte hearing within 24 hours after the petition is filed. Provides that if a court denies a request for an arrest warrant after the ex parte hearing and issues a summons for the defendant, certain notice of the summons to the victim is required. Requires the service of summons on a defendant concerning an alleged crime of domestic violence to be served by a law enforcement officer. Requires a bail hearing if a person is charged with a crime of domestic violence. Enhances the penalty for invasion of privacy to a Level 6 felony if a person violates a no contact order that was issued as a condition of probation or a bond. Enhances the penalty for domestic battery to a Level 6 felony if a person has a previous conviction of domestic battery. Provides that bail must be revoked for a defendant charged with a crime of domestic violence who violates a no contact order while on bail and who is subsequently charged with invasion of privacy or a subsequent crime of domestic violence.

**Effective:** July 1, 2019.

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## Goodin

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January 14, 2019, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1415

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 35-31.5-2-78, AS AMENDED BY P.L.181-2014,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 78. "Crime of domestic violence", for purposes of  
4 IC 5-2-6.1, **IC 35-33**, IC 35-38-9, and IC 35-47-4-7, means an offense  
5 or the attempt to commit an offense that:  
6 (1) has as an element the:  
7 (A) use of physical force; or  
8 (B) threatened use of a deadly weapon; and  
9 (2) is committed against a:  
10 (A) current or former spouse, parent, or guardian of the  
11 defendant;  
12 (B) person with whom the defendant shared a child in  
13 common;  
14 (C) person who was cohabiting with or had cohabited with the  
15 defendant as a spouse, parent, or guardian; or  
16 (D) person who was or had been similarly situated to a spouse,  
17 parent, or guardian of the defendant.



1 SECTION 2. IC 35-33-2-2.5 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 3 1, 2019]: **Sec. 2.5. (a) If a court denies a request for a warrant  
 4 involving an alleged crime of domestic violence, the prosecuting  
 5 attorney may petition the court to hold an ex parte hearing to allow  
 6 the prosecuting attorney to present additional information to  
 7 establish probable cause for an arrest warrant.**

8 **(b) The court shall set an ex parte hearing within twenty-four  
 9 (24) hours after a prosecuting attorney files a petition under  
 10 subsection (a).**

11 **(c) If a court denies an arrest warrant after holding an ex parte  
 12 hearing and issues a summons for the defendant to appear before  
 13 the court, the court shall:**

14 **(1) notify the victim before the summons is served on the  
 15 defendant; or**

16 **(2) notify the prosecuting attorney at least twenty-four (24)  
 17 hours before the summons is served on the defendant to allow  
 18 the prosecuting attorney to notify the victim.**

19 **(d) If a court issues a summons for a defendant involving an  
 20 alleged crime of domestic violence, only a law enforcement officer  
 21 may serve the summons. Informal service of the summons on  
 22 defense counsel is prohibited.**

23 SECTION 3. IC 35-33-8-3.5, AS AMENDED BY P.L.187-2017,  
 24 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2019]: **Sec. 3.5. (a) This section applies only to a sexually  
 26 violent predator defendant.**

27 **(b) As used in this section, "sexually violent predator defendant"  
 28 means a person who:**

29 **(1) is a sexually violent predator under IC 35-38-1-7.5; and**

30 **(2) is arrested for or charged with the commission of an offense  
 31 that would classify the person as a sex or violent offender (as  
 32 defined in IC 11-8-8-5).**

33 **(c) A court may not admit a:**

34 **(1) sexually violent predator defendant;**

35 **(2) person charged with child molesting (IC 35-42-4-3); or**

36 **(3) person charged with child solicitation (IC 35-42-4-6); or**

37 **(4) person charged with a crime of domestic violence (as  
 38 defined in IC 35-31.5-2-78);**

39 to bail until the court has conducted a bail hearing in open court.  
 40 Except as provided in section 6 of this chapter, the court shall conduct  
 41 a bail hearing not later than forty-eight (48) hours after the person has  
 42 been arrested, unless exigent circumstances prevent holding the



1 hearing within forty-eight (48) hours.

2 (d) At the conclusion of the hearing described in subsection (c) and  
3 after consideration of the bail guidelines described in section 3.8 of this  
4 chapter, the court shall consider whether the factors described in  
5 section 4 of this chapter warrant the imposition of a bail amount that  
6 exceeds court or county guidelines, if applicable.

7 SECTION 4. IC 35-33-8-3.7 IS ADDED TO THE INDIANA CODE  
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2019]: **Sec. 3.7. (a) This section applies only to a defendant who  
10 is charged with a crime of domestic violence, as defined in  
11 IC 35-31.5-2-78.**

12 **(b) Except as provided in subsection (c), if a defendant described  
13 in subsection (a) violates any no contact order while on bail and  
14 subsequently is charged with:**

- 15 (1) invasion of privacy, as described in IC 35-46-1-15.1; or  
16 (2) a subsequent crime of domestic violence, as defined in  
17 IC 35-31.5-2-78;

18 **the court shall revoke the defendant's bail and hold the defendant  
19 in jail.**

20 **(c) After a hearing, a court may admit a defendant described in  
21 subsection (b) to bail if the defendant wears a GPS tracking device  
22 as a condition of bail.**

23 **(d) A court may order a person who is required to wear a GPS  
24 tracking device under subsection (c) to pay any costs associated  
25 with the GPS tracking device.**

26 SECTION 5. IC 35-38-1-33, AS ADDED BY P.L.87-2018,  
27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2019]: **Sec. 33. (a) As used in this section, "offender" means  
29 an individual convicted of a sex offense.**

30 **(b) As used in this section, "sex offense" has the meaning set forth  
31 in IC 11-8-8-5.2.**

32 **(c) An offender may petition for waiver of the residency restriction  
33 described in ~~IC 35-46-1-15.1(c)~~. IC 35-46-1-15.1(d). The court may  
34 waive the residency restriction if the court, at a hearing at which the  
35 offender is present and of which the prosecuting attorney has been  
36 notified, determines that:**

- 37 (1) the offender has successfully completed a sex offender  
38 treatment program; and  
39 (2) good cause exists to allow the offender to reside within one (1)  
40 mile of the residence of the victim of the offender's sex offense.

41 However, the court may not grant a waiver under this subsection if the  
42 offender is a sexually violent predator under IC 35-38-1-7.5 or if the



1 offender is an offender against children under IC 35-42-4-11.

2 (d) If the court grants a waiver under this section, the court shall  
 3 determine the duration of the waiver. The offender may petition the  
 4 court for an extension of the waiver not later than sixty (60) days before  
 5 its expiration. However, if the court denies an offender's petition for  
 6 waiver under this section, then the offender is subject to prosecution for  
 7 the offense described in ~~IC 35-46-1-15.1(c)~~: **IC 35-46-1-15.1(d)**.

8 (e) If the court grants a waiver under this section, the court shall  
 9 state in writing the reasons for granting the waiver. The court's written  
 10 statement of its reasons shall be incorporated into the record.

11 (f) The address of the victim of the offender's sex offense is  
 12 confidential even if the court grants a waiver under this section.

13 SECTION 6. IC 35-42-2-1.3, AS AMENDED BY P.L.65-2016,  
 14 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2019]: Sec. 1.3. (a) Except as provided in subsections (b)  
 16 through (f), a person who knowingly or intentionally:

17 (1) touches a family or household member in a rude, insolent, or  
 18 angry manner; or

19 (2) in a rude, insolent, or angry manner places any bodily fluid or  
 20 waste on a family or household member;

21 commits domestic battery, a Class A misdemeanor.

22 (b) The offense under subsection (a)(1) or (a)(2) is a Level 6 felony  
 23 if one (1) or more of the following apply:

24 (1) The person who committed the offense has a previous,  
 25 unrelated conviction:

26 (A) for a battery offense included in this chapter; ~~or~~

27 **(B) for a domestic battery offense under this section; or**

28 ~~(B)~~ **(C)** in any other jurisdiction, including a military court, in  
 29 which the elements of the crime for which the conviction was  
 30 entered are substantially similar to the elements of a battery  
 31 offense included in this chapter.

32 (2) The person who committed the offense is at least eighteen (18)  
 33 years of age and committed the offense against a family or  
 34 household member in the physical presence of a child less than  
 35 sixteen (16) years of age, knowing that the child was present and  
 36 might be able to see or hear the offense.

37 (3) The offense results in moderate bodily injury to a family or  
 38 household member.

39 (4) The offense is committed against a family or household  
 40 member who is less than fourteen (14) years of age and is  
 41 committed by a person at least eighteen (18) years of age.

42 (5) The offense is committed against a family or household



1 member of any age who has a mental or physical disability and is  
2 committed by a person having the care of the family or household  
3 member with the mental or physical disability, whether the care  
4 is assumed voluntarily or because of a legal obligation.

5 (6) The offense is committed against a family or household  
6 member who is an endangered adult (as defined in IC 12-10-3-2).

7 (c) The offense described in subsection (a)(1) or (a)(2) is a Level 5  
8 felony if one (1) or more of the following apply:

9 (1) The offense results in serious bodily injury to a family or  
10 household member.

11 (2) The offense is committed with a deadly weapon against a  
12 family or household member.

13 (3) The offense results in bodily injury to a pregnant family or  
14 household member if the person knew of the pregnancy.

15 (4) The person has a previous conviction for a battery offense:

16 (A) included in this chapter against the same family or  
17 household member; or

18 (B) against the same family or household member in any other  
19 jurisdiction, including a military court, in which the elements  
20 of the crime for which the conviction was entered are  
21 substantially similar to the elements of a battery offense  
22 included in this chapter.

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

25 (A) A family or household member who is less than fourteen  
26 (14) years of age if the offense is committed by a person at  
27 least eighteen (18) years of age.

28 (B) A family or household member who has a mental or  
29 physical disability if the offense is committed by an individual  
30 having care of the family or household member with the  
31 disability, regardless of whether the care is assumed  
32 voluntarily or because of a legal obligation.

33 (C) A family or household member who is an endangered  
34 adult (as defined in IC 12-10-3-2).

35 (d) The offense described in subsection (a)(1) or (a)(2) is a Level 4  
36 felony if it results in serious bodily injury to a family or household  
37 member who is an endangered adult (as defined in IC 12-10-3-2).

38 (e) The offense described in subsection (a)(1) or (a)(2) is a Level 3  
39 felony if it results in serious bodily injury to a family or household  
40 member who is less than fourteen (14) years of age if the offense is  
41 committed by a person at least eighteen (18) years of age.

42 (f) The offense described in subsection (a)(1) or (a)(2) is a Level 2



1 felony if it results in the death of one (1) or more of the following:

2 (1) A family or household member who is less than fourteen (14)  
3 years of age if the offense is committed by a person at least  
4 eighteen (18) years of age.

5 (2) A family or household member who is an endangered adult (as  
6 defined in IC 12-10-3-2).

7 SECTION 7. IC 35-46-1-15.1, AS AMENDED BY P.L.87-2018,  
8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2019]: Sec. 15.1. (a) A person who knowingly or intentionally  
10 violates:

11 (1) a protective order to prevent domestic or family violence  
12 issued under IC 34-26-5 (or, if the order involved a family or  
13 household member, under IC 34-26-2 or IC 34-4-5.1-5 before  
14 their repeal);

15 (2) an ex parte protective order issued under IC 34-26-5 (or, if the  
16 order involved a family or household member, an emergency  
17 order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

18 (3) a workplace violence restraining order issued under  
19 IC 34-26-6;

20 (4) a no contact order in a dispositional decree issued under  
21 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4  
22 or IC 31-6-4-15.9 before their repeal) or an order issued under  
23 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the  
24 person to refrain from direct or indirect contact with a child in  
25 need of services or a delinquent child;

26 (5) a no contact order issued as a condition of pretrial release,  
27 including release on bail or personal recognizance, or pretrial  
28 diversion, and including a no contact order issued under  
29 IC 35-33-8-3.6;

30 (6) a no contact order issued as a condition of probation;

31 (7) a protective order to prevent domestic or family violence  
32 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before  
33 their repeal);

34 (8) a protective order to prevent domestic or family violence  
35 issued under IC 31-14-16-1 in a paternity action;

36 (9) an order issued in another state that is substantially similar to  
37 an order described in subdivisions (1) through (8);

38 (10) an order that is substantially similar to an order described in  
39 subdivisions (1) through (8) and is issued by an Indian:

40 (A) tribe;

41 (B) band;

42 (C) pueblo;



- 1 (D) nation; or  
 2 (E) organized group or community, including an Alaska  
 3 Native village or regional or village corporation as defined in  
 4 or established under the Alaska Native Claims Settlement Act  
 5 (43 U.S.C. 1601 et seq.);  
 6 that is recognized as eligible for the special programs and services  
 7 provided by the United States to Indians because of their special  
 8 status as Indians;  
 9 (11) an order issued under IC 35-33-8-3.2; or  
 10 (12) an order issued under IC 35-38-1-30;  
 11 commits invasion of privacy, a Class A misdemeanor.  
 12 **(b) However, the offense described in subsection (a) is a Level 6**  
 13 **felony if the person:**  
 14 **(1) has a prior unrelated conviction for an offense under this**  
 15 **subsection; section; or**  
 16 **(2) violated a no contact order described in subsection (a) that**  
 17 **was issued as a condition of bond or probation.**  
 18 ~~(b)~~ **(c)** It is not a defense to a prosecution under subsection (a) that  
 19 the accused person used or operated an unmanned aerial vehicle in  
 20 committing the violation.  
 21 ~~(c)~~ **(d)** A sex offender under IC 11-8-8-4.5 who:  
 22 (1) establishes a new residence within a one (1) mile radius of the  
 23 residence of the victim of the offender's sex offense;  
 24 (2) intends to reside (as defined in IC 35-42-4-11(b)) at the  
 25 residence; and  
 26 (3) at the time the sex offender established the residence, knew or  
 27 reasonably should have known that the residence was located  
 28 within a one (1) mile radius of the residence of the victim of the  
 29 offender's sex offense;  
 30 commits invasion of privacy, a Class A misdemeanor. However, the  
 31 offense is a Level 6 felony if the sex offender has a prior unrelated  
 32 conviction under this subsection.  
 33 ~~(d)~~ **(e)** The victim of the sex offender's sex offense may not be  
 34 prosecuted under subsection ~~(c)~~ **(d)** if the victim's liability is based on  
 35 aiding, inducing, or causing the offender to commit the offense  
 36 described in subsection ~~(c)~~ **(d)**.  
 37 ~~(e)~~ **(f)** Subsection ~~(c)~~ **(d)** does not apply to a sex offender who has  
 38 obtained a waiver of residency under IC 35-38-2-2.5 or IC 35-38-1-33.

