

# HOUSE BILL No. 1615

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2-42; IC 34-6-2; IC 34-23.5; IC 35-31.5-2; IC 35-46-3.

**Synopsis:** Death or injury to animals. Increases the offense level for certain animal cruelty crimes. Amends and creates certain definitions for offenses relating to animals. Provides that a person who prevails in an action based on the wrongful death of the person's companion animal may recover: (1) liquidated damages; (2) the fair market value of the companion animal; (3) the costs of the action; and (4) reasonable attorney's fees. Makes conforming amendments.

**Effective:** July 1, 2019.

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**Hatfield, McNamara, VanNatter,  
Mahan**

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January 22, 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. 1615

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 31-9-2-42, AS AMENDED BY P.L.171-2007,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 42. "Domestic or family violence" means, except  
4 for an act of ~~self defense~~; **self-defense**, the occurrence of one (1) or  
5 more of the following acts committed by a family or household  
6 member:  
7 (1) Attempting to cause, threatening to cause, or causing physical  
8 harm to another family or household member without legal  
9 justification.  
10 (2) Placing a family or household member in fear of physical  
11 harm without legal justification.  
12 (3) Causing a family or household member to involuntarily  
13 engage in sexual activity by force, threat of force, or duress.  
14 (4) ~~Beating~~ **Abusing** (as described in IC 35-46-3-0.5(2)),  
15 torturing (as described in ~~IC 35-46-3-0.5(5)~~); **IC 35-46-3-0.5(7)**),  
16 mutilating (as described in ~~IC 35-46-3-0.5(3)~~);  
17 **IC 35-46-3-0.5(4)**), or killing a vertebrate animal without



1 justification with the intent to threaten, intimidate, coerce, harass,  
2 or terrorize a family or household member.

3 For purposes of IC 22-4-15-1 and IC 34-26-5, domestic or family  
4 violence also includes stalking (as defined in IC 35-45-10-1) or a sex  
5 offense under IC 35-42-4, whether or not the stalking or sex offense is  
6 committed by a family or household member.

7 SECTION 2. IC 34-6-2-27.5 IS ADDED TO THE INDIANA CODE  
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2019]: **Sec. 27.5. "Companion animal", for purposes of**  
10 **IC 34-23.5, has the meaning set forth in IC 15-20-4-2.**

11 SECTION 3. IC 34-6-2-34.5, AS AMENDED BY P.L.171-2007,  
12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2019]: Sec. 34.5. "Domestic or family violence" means,  
14 except for an act of self-defense, the occurrence of at least one (1) of  
15 the following acts committed by a family or household member:

16 (1) Attempting to cause, threatening to cause, or causing physical  
17 harm to another family or household member.

18 (2) Placing a family or household member in fear of physical  
19 harm.

20 (3) Causing a family or household member to involuntarily  
21 engage in sexual activity by force, threat of force, or duress.

22 (4) **Beating Abusing** (as described in IC 35-46-3-0.5(2)),  
23 torturing (as described in ~~IC 35-46-3-0.5(5)~~; **IC 35-46-3-0.5(7)**),  
24 mutilating (as described in ~~IC 35-46-3-0.5(3)~~);  
25 **IC 35-46-3-0.5(4)**), or killing a vertebrate animal without  
26 justification with the intent to threaten, intimidate, coerce, harass,  
27 or terrorize a family or household member.

28 For purposes of IC 34-26-5, domestic and family violence also includes  
29 stalking (as defined in IC 35-45-10-1) or a sex offense under  
30 IC 35-42-4, whether or not the stalking or sex offense is committed by  
31 a family or household member.

32 SECTION 4. IC 34-23.5 IS ADDED TO THE INDIANA CODE AS  
33 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
34 2019]:

35 **ARTICLE 23.5. CAUSES OF ACTION: WRONGFUL DEATH**  
36 **OF A COMPANION ANIMAL**

37 **Chapter 1. Wrongful Death of a Companion Animal**

38 **Sec. 1. As used in this chapter, "companion animal" has the**  
39 **meaning set forth in IC 15-20-4-2.**

40 **Sec. 2. A person who prevails in an action based on the wrongful**  
41 **death of the person's companion animal may recover:**

42 (1) liquidated damages of not more than five thousand dollars



- 1           **(\$5,000);**  
 2           **(2) the fair market value of the companion animal;**  
 3           **(3) the costs of the action; and**  
 4           **(4) reasonable attorney's fees.**

5           SECTION 5. IC 35-31.5-2-1.5 IS ADDED TO THE INDIANA  
 6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 7 [EFFECTIVE JULY 1, 2019]: **Sec. 1.5. "Abuse", for purposes of**  
 8 **IC 35-46-3, has the meaning set forth in IC 35-46-3-0.5(2).**

9           SECTION 6. IC 35-31.5-2-26 IS REPEALED [EFFECTIVE JULY  
 10 1, 2019]. ~~Sec. 26. "Beat"; for purposes of IC 35-46-3, has the meaning~~  
 11 ~~set forth in IC 35-46-3-0.5(2).~~

12           SECTION 7. IC 35-31.5-2-161.7 IS ADDED TO THE INDIANA  
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2019]: **Sec. 161.7. "Humane euthanasia", for**  
 15 **purposes of IC 35-46-3, has the meaning set forth in**  
 16 **IC 35-46-3-0.5(3).**

17           SECTION 8. IC 35-31.5-2-208, AS ADDED BY P.L.114-2012,  
 18 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2019]: Sec. 208. "Mutilate", for purposes of IC 35-46-3, has  
 20 the meaning set forth in ~~IC 35-46-3-0.5(3)~~: **IC 35-46-3-0.5(4).**

21           SECTION 9. IC 35-31.5-2-210, AS ADDED BY P.L.114-2012,  
 22 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2019]: Sec. 210. "Neglect", for purposes of IC 35-46-3, has  
 24 the meaning set forth in ~~IC 35-46-3-0.5(4)~~: **IC 35-46-3-0.5(5).**

25           SECTION 10. IC 35-31.5-2-329.5 IS ADDED TO THE INDIANA  
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2019]: **Sec. 329.5. "Tethering", for purposes**  
 28 **of IC 35-46-3, has the meaning set forth in IC 35-46-3-0.5(6).**

29           SECTION 11. IC 35-31.5-2-335, AS ADDED BY P.L.114-2012,  
 30 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2019]: Sec. 335. "Torture", for purposes of IC 35-46-3, has the  
 32 meaning set forth in ~~IC 35-46-3-0.5(5)~~: **IC 35-46-3-0.5(7).**

33           SECTION 12. IC 35-46-3-0.5, AS AMENDED BY P.L.111-2009,  
 34 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2019]: Sec. 0.5. The following definitions apply throughout  
 36 this chapter:

- 37           (1) "Abandon" means to desert an animal or to leave the animal  
 38 **permanently in a place** without making provision for adequate  
 39 long term care of the animal. The term does not include leaving  
 40 an animal in a place that is temporarily vacated for the protection  
 41 of human life during a disaster.  
 42           (2) ~~"Beat"~~ **"Abuse"** means to ~~unnecessarily or cruelly~~ **knowingly**



1 **or intentionally beat, strike, torment, injure, or otherwise**  
 2 **mistreat** an animal. ~~or to throw the animal against an object~~  
 3 ~~causing the animal to suffer severe pain or injury. The term does~~  
 4 ~~not include reasonable training or disciplinary techniques.~~

5 **(3) "Humane euthanasia" means the humane destruction of**  
 6 **an animal by a method that uses sodium pentobarbital or a**  
 7 **derivative and that causes painless loss of consciousness and**  
 8 **subsequent death. The term does not include the use of**  
 9 **methods prohibited by section 15 of this chapter.**

10 ~~(3)~~ **(4) "Mutilate"** means to wound, injure, maim, or disfigure an  
 11 animal by ~~irreparably~~ damaging the animal's body parts or to  
 12 render any part of the animal's body useless. The term includes  
 13 bodily injury involving:

14 (A) serious permanent disfigurement;

15 (B) serious temporary disfigurement;

16 (C) permanent or protracted loss or impairment of the function  
 17 of a bodily part or organ; or

18 (D) a fracture.

19 ~~(4)~~ **(5) "Neglect"** means:

20 (A) endangering an animal's health by failing to provide or  
 21 arrange to provide the animal with food or drink, if the animal  
 22 is dependent upon the person for the provision of food or  
 23 drink;

24 (B) restraining an animal for more than a brief period in a  
 25 manner that endangers the animal's life or health by the use of  
 26 a rope, chain, or tether that:

27 (i) is less than three (3) times the length of the animal;

28 (ii) is too heavy to permit the animal to move freely; or

29 (iii) causes the animal to choke;

30 (C) **tethering or otherwise** restraining an animal in a manner  
 31 that seriously endangers the animal's life or health;

32 (D) failing to:

33 (i) provide reasonable care for; or

34 (ii) seek veterinary care for;

35 an injury or illness to a dog or cat that seriously endangers the  
 36 life or health of the dog or cat; or

37 (E) leaving a dog or cat outside and exposed to:

38 (i) excessive heat without providing the animal with a means  
 39 of shade from the heat; or

40 (ii) excessive cold if the animal is not provided with straw  
 41 or another means of protection from the cold;

42 regardless of whether the animal is restrained or kept in a



1 kennel.

2 **(6) "Tethering" means the restraint and confinement of an**  
 3 **animal by use of a chain, rope, trolley, cable, or similar**  
 4 **device.**

5 ~~(5)~~ **(7) "Torture" means:**

6 (A) to inflict extreme physical pain or injury on an animal with  
 7 the intent of increasing or prolonging the animal's pain; ~~or~~

8 (B) to administer poison to a domestic animal (as defined in  
 9 section 12(d) of this chapter) or expose a domestic animal to  
 10 a poisonous substance with the intent that the domestic animal  
 11 ingest the substance; ~~and suffer harm, pain, or physical injury.~~

12 **(C) to electrocute an animal; or**

13 **(D) to intentionally freeze or heat an animal to death.**

14 SECTION 13. IC 35-46-3-11.3, AS AMENDED BY P.L.158-2013,  
 15 SECTION 564, IS AMENDED TO READ AS FOLLOWS  
 16 [EFFECTIVE JULY 1, 2019]: Sec. 11.3. (a) As used in this section,  
 17 "search and rescue dog" means a dog that receives special training to  
 18 locate or attempt to locate by air scent or ground or water tracking a  
 19 person who is an offender or is lost, trapped, injured, or incapacitated.

20 (b) A person who knowingly or intentionally:

21 (1) interferes with the actions of a search and rescue dog while the  
 22 dog is performing or is attempting to perform a search and rescue  
 23 task; or

24 (2) strikes, torments, injures, or otherwise mistreats a search and  
 25 rescue dog;

26 commits a ~~Class A misdemeanor~~. **Level 6 felony.**

27 (c) An offense under subsection (b)(2) is a ~~Level 6~~ **Level 5** felony  
 28 if the act results in:

29 (1) serious permanent disfigurement;

30 (2) unconsciousness;

31 (3) permanent or protracted loss or impairment of the function of  
 32 a bodily member or organ; or

33 (4) death;

34 of the search and rescue dog.

35 (d) It is a defense that the accused person:

36 (1) engaged in a reasonable act of training, handling, or  
 37 disciplining the search and rescue dog; or

38 (2) reasonably believed the conduct was necessary to prevent  
 39 injury to the accused person or another person.

40 (e) In addition to any sentence or fine imposed for a conviction of  
 41 an offense under this section, the court may order the person to make  
 42 restitution to the person who owns the search and rescue dog for



1 reimbursement of:

- 2 (1) veterinary bills; and  
 3 (2) replacement costs of the dog if the dog is disabled or killed.

4 SECTION 14. IC 35-46-3-11.5, AS AMENDED BY P.L.158-2013,  
 5 SECTION 565, IS AMENDED TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2019]: Sec. 11.5. (a) As used in this section,  
 7 "service animal" means an animal that a person who is impaired by:

- 8 (1) blindness or any other visual impairment;  
 9 (2) deafness or any other aural impairment;  
 10 (3) a physical disability; or  
 11 (4) a medical condition;

12 relies on for navigation, assistance in performing daily activities, or  
 13 alert signals regarding the onset of the person's medical condition.

14 (b) A person who knowingly or intentionally:

- 15 (1) interferes with the actions of a service animal; or  
 16 (2) strikes, torments, injures, or otherwise mistreats a service  
 17 animal;

18 while the service animal is engaged in assisting an impaired person  
 19 described in subsection (a) commits a ~~Class A misdemeanor~~. **Level 6**  
 20 **felony**.

21 (c) An offense under subsection (b)(2) is a ~~Level 6~~ **Level 5** felony  
 22 if the act results in the:

- 23 (1) serious permanent disfigurement;  
 24 (2) unconsciousness;  
 25 (3) permanent or protracted loss or impairment of the function of  
 26 a bodily member or organ; or  
 27 (4) death;

28 of the service animal.

29 (d) It is a defense that the accused person:

- 30 (1) engaged in a reasonable act of training, handling, or  
 31 disciplining the service animal; or  
 32 (2) reasonably believed the conduct was necessary to prevent  
 33 injury to the accused person or another person.

34 SECTION 15. IC 35-46-3-12, AS AMENDED BY P.L.158-2013,  
 35 SECTION 566, IS AMENDED TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2019]: Sec. 12. (a) This section does not apply  
 37 to a person who euthanizes an injured, a sick, a homeless, or an  
 38 unwanted domestic animal if:

- 39 (1) the person is employed by a humane society, an animal control  
 40 agency, or a governmental entity operating an animal shelter or  
 41 other animal impounding facility; and  
 42 (2) the person euthanizes the domestic animal in accordance with



- 1 guidelines adopted by the humane society, animal control agency,  
 2 or governmental entity operating the animal shelter or other  
 3 animal impounding facility.
- 4 (b) A person who knowingly or intentionally ~~beats~~ **abuses** a  
 5 vertebrate animal commits cruelty to an animal, a ~~Class A~~  
 6 ~~misdemeanor.~~ **Level 6 felony.** However, the offense is a ~~Level 6~~ **Level**  
 7 **5** felony if:
- 8 (1) the person has a previous, unrelated conviction under this  
 9 section; or
- 10 (2) the person committed the offense with the intent to threaten,  
 11 intimidate, coerce, harass, or terrorize a family or household  
 12 member.
- 13 (c) A person who knowingly or intentionally tortures or mutilates a  
 14 vertebrate animal commits torturing or mutilating a vertebrate animal,  
 15 a ~~Level 6~~ **Level 5** felony.
- 16 (d) As used in this subsection, "domestic animal" means an animal  
 17 that is not wild. The term is limited to:
- 18 (1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats,  
 19 poultry, ostriches, rhea, and emus; and
- 20 (2) an animal of the bovine, equine, ovine, caprine, porcine,  
 21 canine, feline, camelid, cervidae, or bison species.
- 22 A person who knowingly or intentionally kills a domestic animal  
 23 without the consent of the owner of the domestic animal commits  
 24 killing a domestic animal, a ~~Level 6~~ **Level 5** felony.
- 25 (e) It is a defense to a prosecution under this section that the  
 26 accused person:
- 27 (1) reasonably believes the conduct was necessary to:
- 28 (A) prevent injury to the accused person or another person;  
 29 (B) protect the property of the accused person from destruction  
 30 or substantial damage; or
- 31 (C) prevent a seriously injured vertebrate animal from  
 32 prolonged suffering; or
- 33 (2) engaged in a reasonable and recognized act of training,  
 34 handling, or disciplining the vertebrate animal.
- 35 (f) When a court imposes a sentence or enters a dispositional decree  
 36 under this section, the court:
- 37 (1) shall consider requiring:
- 38 (A) a person convicted of an offense under this section; or  
 39 (B) a child adjudicated a delinquent child for committing an  
 40 act that would be a crime under this section if committed by an  
 41 adult;  
 42 to receive psychological, behavioral, or other counseling as a part





1 of the sentence or dispositional decree; and  
2 (2) may order an individual described in subdivision (1) to receive  
3 psychological, behavioral, or other counseling as a part of the  
4 sentence or dispositional decree.

