

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 203

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-42-1-1, AS AMENDED BY P.L.252-2017, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. A person who:

- (1) knowingly or intentionally kills another human being;
- (2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct (under IC 35-42-4-2 before its repeal), kidnapping, rape, robbery, human trafficking, promotion of human trafficking, sexual trafficking of a minor, or carjacking (before its repeal);
- (3) kills another human being while committing or attempting to commit:
 - (A) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
 - (B) dealing in methamphetamine (IC 35-48-4-1.1);
 - (C) manufacturing methamphetamine (IC 35-48-4-1.2);
 - (D) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
 - (E) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
 - (F) dealing in a schedule V controlled substance; or

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(4) **except as provided in section 6.5 of this chapter**, knowingly or intentionally kills a fetus ~~that has attained viability (as defined in IC 16-18-2-365)~~ **in any stage of development;**

commits murder, a felony.

SECTION 2. IC 35-42-1-3, AS AMENDED BY P.L.158-2013, SECTION 413, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) A person who knowingly or intentionally:

(1) kills another human being; or

(2) **except as provided in section 6.5 of this chapter**, kills a fetus ~~that has attained viability (as defined in IC 16-18-2-365)~~ **in any stage of development;**

while acting under sudden heat commits voluntary manslaughter, a Level 2 felony.

(b) The existence of sudden heat is a mitigating factor that reduces what otherwise would be murder under section 1(1) of this chapter to voluntary manslaughter.

SECTION 3. IC 35-42-1-4, AS AMENDED BY P.L.65-2016, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) As used in this section, "fetus" means a fetus ~~that has attained viability (as defined in IC 16-18-2-365)~~. **in any stage of development.**

(b) A person who kills another human being while committing or attempting to commit:

(1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;

(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or

(3) battery;

commits involuntary manslaughter, a Level 5 felony.

(c) **Except as provided in section 6.5 of this chapter**, a person who kills a fetus while committing or attempting to commit:

(1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;

(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury;

(3) a battery offense included in IC 35-42-2; or

(4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a vehicle while intoxicated);

commits involuntary manslaughter, a Level 5 felony.

SECTION 4. IC 35-42-1-6, AS AMENDED BY P.L.158-2013, SECTION 416, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2018]: Sec. 6. **Except as provided in section 6.5 of this chapter**, a person who knowingly or intentionally terminates a human pregnancy with an intention other than to produce a live birth or to remove a dead fetus commits feticide, a Level 3 felony. ~~This section does not apply to an abortion performed in compliance with:~~

- (1) ~~IC 16-34; or~~
- (2) ~~IC 35-1-58.5 (before its repeal).~~

SECTION 5. IC 35-42-1-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2018]: **Sec. 6.5. (a) The following sections of this chapter do not apply to an abortion performed in compliance with IC 16-34 or IC 35-1-58.5 (before its repeal):**

- (1) **Section 1 (murder).**
- (2) **Section 3 (voluntary manslaughter).**
- (3) **Section 4 (involuntary manslaughter).**
- (4) **Section 6 (feticide).**

(b) The following sections of this chapter do not apply to a pregnant woman who terminates her own pregnancy or kills a fetus that she is carrying:

- (1) **Section 1 (murder).**
- (2) **Section 3 (voluntary manslaughter).**
- (3) **Section 4 (involuntary manslaughter).**
- (4) **Section 6 (feticide).**

SECTION 6. IC 35-50-2-16, AS ADDED BY P.L.40-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 16. (a) This section does not apply to:**

- (1) **a pregnant woman who terminates or causes the termination of her own pregnancy; or**
- (2) **an abortion performed in compliance with IC 16-34.**

~~(a) (b) The state may seek, on a page separate from the rest of the charging instrument, to have a person who allegedly committed or attempted to commit murder under IC 35-42-1-1(1) or IC 35-42-1-1(2) a felony sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person, while committing or attempting to commit murder under IC 35-42-1-1(1) or IC 35-42-1-1(2); the felony, caused the termination of a human pregnancy.~~

~~(b) (c) If the person is convicted of the murder or attempted murder felony in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.~~



~~(c)~~ **(d)** If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person, while committing or attempting to commit ~~murder under IC 35-42-1-1(1) or IC 35-42-1-1(2)~~, a **felony**, caused the termination of a human pregnancy, the court shall sentence the person to an additional fixed term of imprisonment of not less than six (6) or more than twenty (20) years.

~~(d)~~ **(e)** A sentence imposed under this section runs consecutively to the underlying sentence.

~~(e)~~ **(f)** For purposes of this section, prosecution of the ~~murder or attempted murder under IC 35-42-1-1(1) or IC 35-42-1-1(2)~~ **felony** and the enhancement of the penalty for that crime does not require proof that:

- (1) the person committing or attempting to commit the ~~murder~~ **felony** had knowledge or should have had knowledge that the victim was pregnant; or
- (2) the defendant intended to cause the termination of a human pregnancy.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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