

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 299

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 14-22-6-16, AS ADDED BY P.L.111-2016, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) This section does not apply to the following:

- (1) The department or the department's designee.
- (2) Employees or agents of a governmental entity while performing official duties.
- (3) Employees or agents of an educational or research institution acting for bona fide educational or scientific purposes.
- (4) Use of an unmanned aerial vehicle to assist, provide care for, or provide veterinary treatment to a specific wild animal.
- (5) Use of an unmanned aerial vehicle to monitor areas of agricultural production or to monitor nuisance wild animals.

(b) As used in this section, "take" means to:

- (1) kill, shoot, spear, harm, catch for the purpose of killing, trap for the purpose of killing, or pursue for the purpose of killing a wild animal; or
- (2) attempt to engage in conduct under subdivision (1).

(c) During the period:

- (1) beginning fourteen (14) days before the hunting season for a particular wild animal species; and

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(2) ending upon the expiration of legal hunting hours on the last day of the hunting season;
 a person may not knowingly use an unmanned aerial vehicle (as defined by ~~IC 35-33-5-0.5(7)~~ **IC 35-31.5-2-342.3**) to search for, scout, locate, or detect a wild animal to which the hunting season applies as an aid to take the wild animal.

SECTION 2. IC 35-31.5-2-342.3, AS ADDED BY P.L.170-2014, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 342.3. "Unmanned aerial vehicle" **means an aircraft that does not carry a human operator and that is capable of flight under remote control or autonomous programming. The term includes the following:**

(1) An unmanned aircraft and an unmanned aircraft system (both as defined in the Federal Aviation Administration Modernization and Reform Act of 2012 (P.L.112-95, 126 Stat. 11).

(2) A small unmanned aircraft and a small unmanned aircraft system (both as defined in 14 CFR 107.3).

For purposes of ~~IC 35-33-5~~, has the meaning set forth in ~~IC 35-33-5-0.5(7)~~.

SECTION 3. IC 35-31.5-2-343.7, AS ADDED BY P.L.170-2014, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 343.7. "Use of an unmanned aerial vehicle", for purposes of IC 35-33-5, has the meaning set forth in ~~IC 35-33-5-0.5(8)~~ **IC 35-33-5-0.5.**

SECTION 4. IC 35-31.5-2-343.8, AS ADDED BY P.L.170-2014, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 343.8. "User", for purposes of IC 35-33-5, has the meaning set forth in ~~IC 35-33-5-0.5(9)~~; **IC 35-33-5-0.5.**

SECTION 5. IC 35-33-5-0.5, AS ADDED BY P.L.170-2014, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Electronic communication service" means a service that provides users with the ability to send or receive wire or electronic communications.

(2) "Electronic storage" means any storage of electronic user data on a computer, computer network, or computer system regardless of whether the data is subject to recall, further manipulation, deletion, or transmission. "Electronic storage" includes any storage or electronic communication by an electronic communication service or a remote computing service.



(3) "Electronic user data" means any data or records that are in the possession, care, custody, or control of a provider of an electronic communication service, a remote computing service, or any other service or program that stores, uses, collects, or safeguards electronic user data.

(4) "Governmental entity" has the meaning set forth in IC 35-31.5-2-144. For purposes of this chapter, "governmental entity" also includes a person authorized to act on behalf of a state or local agency.

(5) "Intercept" means to acquire geolocation data through the use of an electronic device, mechanical device, or other device.

(6) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communication service.

~~(7) "Unmanned aerial vehicle" means an aircraft that (A) does not carry a human operator and (B) is capable of flight under remote control or autonomous programming.~~

~~(8)~~ (7) "Use of an unmanned aerial vehicle" means the use of an unmanned aerial vehicle by a law enforcement officer to obtain evidence relevant to the enforcement of statutes, rules, or regulations. The term includes:

(A) the interception of wire, electronic, or oral communications; and

(B) the capture, collection, monitoring, or viewing of images.

~~(9)~~ (8) "User" means any person who:

(A) uses an electronic communication service, remote computing service, geolocation information service, or an electronic device; and

(B) may or may not be the person or entity having legal title, claim, or right to the electronic device or electronic user data.

SECTION 6. IC 35-42-4-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 12.5. (a) This section applies only to a sex offender (as defined in IC 11-8-8-4.5).**

(b) A sex offender who:

(1) knowingly or intentionally operates an unmanned aerial vehicle for the purpose of:

(A) following;

(B) contacting; or

(C) capturing images or recordings of; one (1) or more other individuals; and

(2) is subject to a:



- (A) condition of probation;
- (B) condition of parole;
- (C) condition or rule of a community corrections program;
- or
- (D) rule of a community transition program;

that prohibits the sex offender from following, contacting, or capturing images or recordings of one (1) or more other individuals, regardless of whether the means of engaging in any of those activities is specified in the condition or rule, commits a sex offender unmanned aerial vehicle offense, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this section.

SECTION 7. IC 35-44.1-4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 10. A person who operates an unmanned aerial vehicle in a manner that is intended to obstruct or interfere with:**

- (1) a law enforcement officer;
- (2) a firefighter;
- (3) an emergency medical person; or
- (4) a member of a search and rescue team or mission;

while the individual described in subdivisions (1) through (4) is performing or attempting to perform the individual's official duties, commits public safety remote aerial interference, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this section.

SECTION 8. IC 35-45-4-5, AS AMENDED BY P.L.158-2013, SECTION 529, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 5. (a) The following definitions apply throughout this section:**

- (1) "Camera" means a camera, a video camera, a device that captures a digital image, or any other type of video recording device.
- (2) "Peep" means any looking of a clandestine, surreptitious, prying, or secretive nature.
- (3) "Private area" means the naked or undergarment clad genitals, pubic area, or buttocks of an individual.

(b) A person:

- (1) who knowingly or intentionally:
 - (A) peeps; or
 - (B) goes upon the land of another with the intent to peep;



into an occupied dwelling of another person; or
 (2) who knowingly or intentionally peeps into an area where an occupant of the area reasonably can be expected to disrobe, including:

- (A) restrooms;
- (B) baths;
- (C) showers; and
- (D) dressing rooms;

without the consent of the other person, commits voyeurism, a Class B misdemeanor.

(c) However, the offense under subsection (b) is a Level 6 felony if:

- (1) it is knowingly or intentionally committed by means of a camera; or
- (2) the person who commits the offense has a prior unrelated conviction:

- (A) under this section; or
- (B) in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section.

(d) A person who:

- (1) without the consent of the individual; and
- (2) with intent to peep at the private area of an individual;

peeps at the private area of an individual and records an image by means of a camera commits public voyeurism, a Class A misdemeanor.

(e) The offense under subsection (d) is a Level 6 felony if the person has a prior unrelated conviction under this section or in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section, or if the person:

- (1) publishes the image;
- (2) makes the image available on the Internet; or
- (3) transmits or disseminates the image to another person.

(f) It is a defense to a prosecution under subsection (d) that the individual deliberately exposed the individual's private area.

(g) A person who, with the intent to peep, operates an unmanned aerial vehicle in a manner that is intended to cause the unmanned aerial vehicle to enter the space above or surrounding another person's occupied dwelling for the purpose of capturing images, photographs, video recordings, or audio recordings of the other person while the other person is:

- (1) within the other person's occupied dwelling; or**
- (2) on the land or premises:**

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(A) on which the other person's occupied dwelling is located; and

(B) in a location that is not visible from an area:

(i) open to the general public; or

(ii) where a member of the general public has the right to be;

commits remote aerial voyeurism, a Class A misdemeanor.

(h) The offense under subsection (g) is a Level 6 felony if the person has a prior unrelated conviction under this section or in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section, or if the person:

(1) publishes the images, photographs, or recordings captured;

(2) makes the images, photographs, or recordings captured available on the Internet; or

(3) transmits or disseminates the images, photographs, or recordings captured to another person.

SECTION 9. IC 35-45-10-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 6. A person who operates an unmanned aerial vehicle in a manner that is intended to subject another person to harassment commits remote aerial harassment, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this section.**

SECTION 10. IC 35-46-1-15.1, AS AMENDED BY P.L.65-2016, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 15.1. (a) A person who knowingly or intentionally violates:**

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

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

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

(4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the



person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

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

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

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

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

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

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

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(11) an order issued under IC 35-33-8-3.2; or

(12) an order issued under IC 35-38-1-30;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Level 6 felony, if the person has a prior unrelated conviction for an offense under this section.

(b) It is not a defense to a prosecution under this section that the accused person used or operated an unmanned aerial vehicle in committing the violation.



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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