

### **IC 31-37-3**

#### Chapter 3. Curfew Violations

### **IC 31-37-3-1**

#### **Repealed**

*(Repealed by P.L.79-2001, SEC.4.)*

### **IC 31-37-3-2**

#### **Children 15 through 17 years of age; requirements for detention or custody**

Sec. 2. (a) It is a curfew violation for a child fifteen (15), sixteen (16), or seventeen (17) years of age to be in a public place:

- (1) between 1 a.m. and 5 a.m. on Saturday or Sunday;
- (2) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or
- (3) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(b) A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

- (1) the child has violated this section; and
- (2) there is no legal defense to the violation.

*As added by P.L.1-1997, SEC.20. Amended by P.L.87-2004, SEC.1.*

### **IC 31-37-3-3**

#### **Children less than 15 years of age; requirements for detention or custody**

Sec. 3. (a) It is a curfew violation for a child less than fifteen (15) years of age to be in a public place after 11 p.m. or before 5 a.m. on any day.

(b) A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

- (1) the child has violated this section; and
- (2) there is no legal defense to the violation.

*As added by P.L.1-1997, SEC.20. Amended by P.L.87-2004, SEC.2.*

### **IC 31-37-3-3.5**

#### **Defenses**

Sec. 3.5. (a) It is a defense to a violation under this chapter that the child was emancipated:

- (1) under IC 31-37-19-27 or IC 31-6-4-15.7 (before its repeal);
- (2) by virtue of having married; or
- (3) in accordance with the laws of another state or jurisdiction; at the time that the child engaged in the prohibited conduct.

(b) It is a defense to a violation under this chapter that the child

engaged in the prohibited conduct while:

- (1) accompanied by the child's parent, guardian, or custodian;
- (2) accompanied by an adult specified by the child's parent, guardian, or custodian;
- (3) participating in, going to, or returning from:
  - (A) lawful employment;
  - (B) a school sanctioned activity;
  - (C) a religious event;
  - (D) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
  - (E) an activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or
  - (F) an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;
- (4) participating in an activity undertaken at the prior written direction of the child's parent, guardian, or custodian; or
- (5) engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

*As added by P.L.79-2001, SEC.2. Amended by P.L.82-2006, SEC.1.*

#### **IC 31-37-3-4**

##### **Advancement of curfew time by local ordinance**

Sec. 4. Whenever a city, town, or county determines that any curfew time established by section 2 or 3 of this chapter is later than is reasonable for public safety under the conditions found to exist in the city, town, or county, the city, town, or county may, by ordinance, advance the curfew time within the jurisdiction of the city, town, or county by not more than two (2) hours.

*As added by P.L.1-1997, SEC.20.*

#### **IC 31-37-3-5**

##### **Cemeteries and other facilities to memorialize dead**

Sec. 5. A city, town, or county may:

- (1) determine that a curfew time is necessary for the peace, order, and safety of a cemetery or other facility used to memorialize the dead; and
- (2) by ordinance impose upon cemeteries or other facilities to memorialize the dead within the jurisdiction of the city, town, or county legislative body a curfew time that is earlier than the curfew times established by sections 2 and 3 of this chapter by not more than four (4) hours.

*As added by P.L.1-1997, SEC.20.*