

IC 35-42-2

Chapter 2. Battery and Related Offenses

IC 35-42-2-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

- (1) The amendments made to section 1 of this chapter by P.L.255-1996 apply to offenses committed after June 30, 1996.
- (2) The amendments made to section 1.5 of this chapter by P.L.261-1997 apply to offenses committed after June 30, 1997.
- (3) The addition of section 8 of this chapter by P.L.154-2001 applies only to crimes committed after June 30, 2001.
- (4) The amendments made to section 6 of this chapter by P.L.88-2002 apply only to crimes committed after June 30, 2002.
- (5) The amendments made to section 1 of this chapter by P.L.175-2003 apply only to crimes committed after June 30, 2003.
- (6) The amendments made to section 2 of this chapter by P.L.75-2006 apply only to offenses committed after June 30, 2006.
- (7) The amendments made to section 1.3 of this chapter by P.L.129-2006 apply only to crimes committed after June 30, 2006.
- (8) The addition of section 9 of this chapter by P.L.129-2006 applies only to crimes committed after June 30, 2006.
- (9) The amendments made to section 6 of this chapter by P.L.178-2007 apply only to acts committed after June 30, 2007.

As added by P.L.220-2011, SEC.593.

IC 35-42-2-1

Battery

Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

- (1) a Class A misdemeanor if:
 - (A) it results in bodily injury to any other person;
 - (B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of the officer's official duty;
 - (C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
 - (D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;
 - (E) it is committed against a community policing volunteer:

- (i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or
 - (ii) because the person is a community policing volunteer; or
- (F) it is committed against the state chemist or the state chemist's agent while the state chemist or the state chemist's agent is performing a duty under IC 15-16-5;
- (2) a Class D felony if it results in bodily injury to:
 - (A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of the officer's official duty;
 - (B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
 - (C) a person of any age who has a mental or physical disability and is committed by a person having the care of the person with a mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation;
 - (D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;
 - (E) an endangered adult (as defined in IC 12-10-3-2);
 - (F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;
 - (G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;
 - (H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;
 - (I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;
 - (J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
 - (K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;
 - (L) a community policing volunteer:
 - (i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or
 - (ii) because the person is a community policing volunteer;
 - (M) a family or household member (as defined in IC 35-41-1-10.6) if the person who committed the offense:
 - (i) is at least eighteen (18) years of age; and
 - (ii) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense; or
 - (N) a department of child services employee while the

employee is engaged in the execution of the employee's official duty;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2);

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); and

(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.30; Acts 1979, P.L.298, SEC.1; Acts 1979, P.L.83, SEC.10; Acts 1981, P.L.299, SEC.1; P.L.185-1984, SEC.1; P.L.205-1986, SEC.1; P.L.322-1987, SEC.1; P.L.164-1993, SEC.10; P.L.59-1995, SEC.2; P.L.31-1996, SEC.20; P.L.32-1996, SEC.20; P.L.255-1996, SEC.25; P.L.212-1997, SEC.1; P.L.37-1997, SEC.2; P.L.56-1999, SEC.1; P.L.188-1999, SEC.5; P.L.43-2000, SEC.1; P.L.222-2001, SEC.4; P.L.175-2003, SEC.2; P.L.281-2003, SEC.3; P.L.2-2005, SEC.125; P.L.99-2007, SEC.209; P.L.164-2007, SEC.1; P.L.120-2008, SEC.93; P.L.131-2009, SEC.73.

IC 35-42-2-1.3

Domestic battery

Sec. 1.3. (a) A person who knowingly or intentionally touches an individual who:

(1) is or was a spouse of the other person;

(2) is or was living as if a spouse of the other person as provided in subsection (c); or

(3) has a child in common with the other person;

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor.

(b) However, the offense under subsection (a) is a Class D felony if the person who committed the offense:

(1) has a previous, unrelated conviction:

(A) under this section (or IC 35-42-2-1(a)(2)(E) before its

repeal); or

(B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements described in this section; or

(2) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(c) In considering whether a person is or was living as a spouse of another individual in subsection (a)(2), the court shall review the following:

(1) the duration of the relationship;

(2) the frequency of contact;

(3) the financial interdependence;

(4) whether the two (2) individuals are raising children together;

(5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and

(6) other factors the court considers relevant.

As added by P.L.188-1999, SEC.6. Amended by P.L.47-2000, SEC.3; P.L.221-2003, SEC.18; P.L.129-2006, SEC.1.

IC 35-42-2-1.5

Aggravated battery

Sec. 1.5. A person who knowingly or intentionally inflicts injury on a person that creates a substantial risk of death or causes:

(1) serious permanent disfigurement;

(2) protracted loss or impairment of the function of a bodily member or organ; or

(3) the loss of a fetus;

commits aggravated battery, a Class B felony.

As added by P.L.213-1991, SEC.2. Amended by P.L.261-1997, SEC.6.

IC 35-42-2-2

Criminal recklessness; element of hazing; liability barred for good faith report or judicial participation

Sec. 2. (a) As used in this section, "hazing" means forcing or requiring another person:

(1) with or without the consent of the other person; and

(2) as a condition of association with a group or organization;

to perform an act that creates a substantial risk of bodily injury.

(b) A person who recklessly, knowingly, or intentionally performs:

(1) an act that creates a substantial risk of bodily injury to another person; or

(2) hazing;

commits criminal recklessness. Except as provided in subsection (c), criminal recklessness is a Class B misdemeanor.

(c) The offense of criminal recklessness as defined in subsection

(b) is:

(1) a Class A misdemeanor if the conduct includes the use of a vehicle;

(2) a Class D felony if:

(A) it is committed while armed with a deadly weapon; or

(B) the person committed aggressive driving (as defined in IC 9-21-8-55) that results in serious bodily injury to another person; or

(3) a Class C felony if:

(A) it is committed by shooting a firearm into an inhabited dwelling or other building or place where people are likely to gather; or

(B) the person committed aggressive driving (as defined in IC 9-21-8-55) that results in the death of another person.

(d) A person who recklessly, knowingly, or intentionally:

(1) inflicts serious bodily injury on another person; or

(2) performs hazing that results in serious bodily injury to a person;

commits criminal recklessness, a Class D felony. However, the offense is a Class C felony if committed by means of a deadly weapon.

(e) A person, other than a person who has committed an offense under this section or a delinquent act that would be an offense under this section if the violator was an adult, who:

(1) makes a report of hazing in good faith;

(2) participates in good faith in a judicial proceeding resulting from a report of hazing;

(3) employs a reporting or participating person described in subdivision (1) or (2); or

(4) supervises a reporting or participating person described in subdivision (1) or (2);

is not liable for civil damages or criminal penalties that might otherwise be imposed because of the report or participation.

(f) A person described in subsection (e)(1) or (e)(2) is presumed to act in good faith.

(g) A person described in subsection (e)(1) or (e)(2) may not be treated as acting in bad faith solely because the person did not have probable cause to believe that a person committed:

(1) an offense under this section; or

(2) a delinquent act that would be an offense under this section if the offender was an adult.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.31; Acts 1981, P.L.300, SEC.1; P.L.323-1987, SEC.1; P.L.216-1996, SEC.17; P.L.1-2003, SEC.94; P.L.75-2006, SEC.3.

IC 35-42-2-3

Provocation

Sec. 3. A person who recklessly, knowingly, or intentionally engages in conduct that is likely to provoke a reasonable man to commit battery commits provocation, a Class C infraction.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.32.

IC 35-42-2-4

Obstruction of traffic

Sec. 4. (a) A person who recklessly, knowingly, or intentionally obstructs vehicular or pedestrian traffic commits obstruction of traffic, a Class B misdemeanor.

(b) The offense described in subsection (a) is:

(1) a Class A misdemeanor if the offense includes the use of a motor vehicle; and

(2) a Class D felony if the offense results in serious bodily injury.

As added by P.L.92-1988, SEC.7.

IC 35-42-2-5

Overpass mischief

Sec. 5. (a) As used in this section, "overpass" means a bridge or other structure designed to carry vehicular or pedestrian traffic over any roadway, railroad track, or waterway.

(b) A person who knowingly, intentionally, or recklessly:

(1) drops, causes to drop, or throws an object from an overpass; or

(2) with intent that the object fall, places on an overpass an object that falls off the overpass;

causing bodily injury to another person commits overpass mischief, a Class C felony. However, the offense is a Class B felony if it results in serious bodily injury to another person.

As added by P.L.297-1995, SEC.1.

IC 35-42-2-5.5

Railroad mischief

Sec. 5.5. A person who recklessly, knowingly, or intentionally:

(1) removes an appurtenance from a railroad signal system, resulting in damage or impairment of the operation of the railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad owned, leased, or operated by a railroad carrier without consent of the railroad carrier involved;

(2) tampers with or obstructs a switch, a frog, a rail, a roadbed, a crosstie, a viaduct, a bridge, a trestle, a culvert, an embankment, a structure, or an appliance pertaining to or connected with a railroad carrier without consent of the railroad carrier involved; or

(3) steals, removes, alters, or interferes with a journal bearing, a brass, a waste, a packing, a triple valve, a pressure cock, a brake, an air hose, or another part of the operating mechanism of a locomotive, an engine, a tender, a coach, a car, a caboose, or a motor car used or capable of being used by a railroad

carrier in Indiana without consent of the railroad carrier; commits railroad mischief, a Class D felony. However, the offense is a Class C felony if it results in serious bodily injury to another person and a Class B felony if it results in the death of another person.

As added by P.L.259-1999, SEC.2.

IC 35-42-2-6

Battery by body waste

Sec. 6. (a) As used in this section, "corrections officer" includes a person employed by:

- (1) the department of correction;
- (2) a law enforcement agency;
- (3) a probation department;
- (4) a county jail; or
- (5) a circuit, superior, county, probate, city, or town court.

(b) As used in this section, "firefighter" means a person who is a:

- (1) full-time, salaried firefighter;
- (2) part-time, paid firefighter; or
- (3) volunteer firefighter (as defined in IC 36-8-12-2).

(c) As used in this section, "first responder" means a person who:

- (1) is certified under IC 16-31 and who meets the Indiana emergency medical services commission's standards for first responder certification; and
- (2) responds to an incident requiring emergency medical services.

(d) As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

(e) A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer, firefighter, first responder, corrections officer, or department of child services employee, identified as such and while engaged in the performance of official duties, or coerces another person to place blood or another body fluid or waste on the law enforcement officer, firefighter, first responder, corrections officer, or department of child services employee, commits battery by body waste, a Class D felony. However, the offense is:

(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:

- (A) hepatitis B or hepatitis C;
- (B) HIV; or
- (C) tuberculosis;

(2) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with hepatitis B or hepatitis C and the offense results in the transmission of hepatitis B or hepatitis C to the other person; or

(B) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with tuberculosis

and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class A felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

(f) A person who knowingly or intentionally in a rude, an insolent, or an angry manner places human blood, semen, urine, or fecal waste on another person commits battery by body waste, a Class A misdemeanor. However, the offense is:

(1) a Class D felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with:

(A) hepatitis B or hepatitis C;

(B) HIV; or

(C) tuberculosis;

(2) a Class C felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with hepatitis B or hepatitis C and the offense results in the transmission of hepatitis B or hepatitis C to the other person; or

(B) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

As added by P.L.298-1995, SEC.1. Amended by P.L.88-2002, SEC.1; P.L.85-2004, SEC.53; P.L.178-2007, SEC.3; P.L.131-2009, SEC.74.

IC 35-42-2-7

Tattooing or body piercing a minor

Sec. 7. (a) As used in this section, "tattoo" means:

(1) any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments; or

(2) any design, letter, scroll, figure, or symbol done by scarring; upon or under the skin.

(b) As used in this section, "body piercing" means the perforation of any human body part other than an earlobe for the purpose of inserting jewelry or other decoration or for some other nonmedical purpose.

(c) Except as provided in subsection (e), a person who provides a tattoo to a person who is less than eighteen (18) years of age commits tattooing a minor, a Class A misdemeanor.

(d) This subsection does not apply to an act of a health care professional (as defined in IC 16-27-2-1) licensed under IC 25 when the act is performed in the course of the health care professional's practice. Except as provided in subsection (e), a person who performs body piercing upon a person who is less than eighteen (18) years of age commits body piercing a minor, a Class A misdemeanor.

(e) A person may provide a tattoo to a person who is less than eighteen (18) years of age or perform body piercing upon a person who is less than eighteen (18) years of age if a parent or legal guardian of the person receiving the tattoo or undergoing the body piercing:

(1) is present at the time the tattoo is provided or the body piercing is performed; and

(2) provides written permission for the person to receive the tattoo or undergo the body piercing.

(f) Notwithstanding IC 36-1-3-8(a), a unit (as defined in IC 36-1-2-23) may adopt an ordinance that is at least as restrictive or more restrictive than this section or a rule adopted under IC 16-19-3-4.1 or IC 16-19-3-4.2.

As added by P.L.181-1997, SEC.3. Amended by P.L.166-1999, SEC.2.

IC 35-42-2-8

Obstruction of delivery of prescription drug

Sec. 8. (a) The following definitions apply throughout this section:

(1) "Health care provider" refers to a health care provider (as defined in IC 16-18-2-163(a), IC 16-18-2-163(b), or IC 16-18-2-163(c)) or a qualified medication aide as described in IC 16-28-1-11.

(2) "Licensed health professional" has the meaning set forth in IC 25-23-1-27.1.

(3) "Practitioner" has the meaning set forth in IC 16-42-19-5. However, the term does not include a veterinarian.

(4) "Prescription drug" has the meaning set forth in IC 35-48-1-25.

(b) A person who knowingly or intentionally physically interrupts, obstructs, or alters the delivery or administration of a prescription drug:

(1) prescribed or ordered by a practitioner for a person who is a patient of the practitioner; and

(2) without the prescription or order of a practitioner;

commits interference with medical services, a Class A misdemeanor. However, the offense is a Class D felony if the offense results in bodily injury to the patient.

(c) However, an offense described in subsection (b) is:

(1) a Class C felony if it is committed by a person who is a licensed health care provider or licensed health professional;

(2) a Class B felony if it results in serious bodily injury to the patient; and

(3) a Class A felony if it results in the death of the patient.

(d) A person is justified in engaging in conduct otherwise prohibited under this section if the conduct was performed by:

(1) a health care provider or licensed health professional who acted in good faith within the scope of the person's practice or employment; or

(2) a person who was rendering emergency care at the scene of an emergency or accident in a good faith attempt to avoid or minimize serious bodily injury to the patient.

As added by P.L.154-2001, SEC.1.

IC 35-42-2-9

Strangulation

Sec. 9. (a) This section does not apply to a medical procedure.

(b) A person who, in a rude, angry, or insolent manner, knowingly or intentionally:

(1) applies pressure to the throat or neck of another person; or

(2) obstructs the nose or mouth of the another person;

in a manner that impedes the normal breathing or the blood circulation of the other person commits strangulation, a Class D felony.

As added by P.L.129-2006, SEC.2.