SENATE BILL No. 180

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-1-9; IC 10-13-3; IC 11-8-8-1.8; IC 34-6-2-21; IC 34-24-5; IC 35-31.5-2-27.7; IC 35-42; IC 35-43; IC 35-45.

Synopsis: Bias motivated offenses. Provides that a bias motivated crime is an offense in which the person who committed the offense intentionally: (1) selected the person who was injured; or (2) damaged or otherwise affected property; by the offense because of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender, or gender identity of the injured person or of the owner or occupant of the affected property. Enhances the penalties for the following offenses one level if the offense is a bias motivated crime: (1) Battery. (2) Aggravated battery. (3) Strangulation. (4) Kidnapping. (5) Criminal confinement. (6) Robbery. (7) Arson. (8) Criminal mischief. (9) Burglary. (10) Residential entry. (11) Criminal trespass. (12) Theft. (13) Criminal conversion. (14) Intimidation. (15) Harassment. (16) Stalking. Requires law enforcement officers to receive training in identifying, responding to, and reporting bias motivated crimes. Amends the law that requires law enforcement agencies to collect and report information concerning bias motivated crimes. Allows an individual who suffers a personal injury or property damage to bring a civil action to recover damages, including punitive damages, if the person who committed the act that caused the injury or property damage selected the individual because of the individual's actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender, or gender identity.

Effective: July 1, 2015.

Taylor

January 6, 2015, read first time and referred to Committee on Corrections & Criminal Law.

Introduced

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 180

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:

SECTION 1. IC 5-2-1-9, AS AMENDED BY P.L.164-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance

requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness, including training on the U nonimmigrant visa created through the federal Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) that must be required for each person accepted for training at a law enforcement training school or academy. Cultural diversity awareness study must include an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

(A) persons with autism, mental illness, addictive disorders, mental retardation, and developmental disabilities;

(B) missing endangered adults (as defined in IC 12-7-2-131.3); and

(C) persons with Alzheimer's disease or related senile dementia;

to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.
(C) Communicating with traumatized persons.
(D) Therapeutically appropriate investigative techniques.
(E) Collaboration with federal law enforcement officials.
(F) Rights of and protections afforded to victims.
(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.
(H) The availability of community resources to assist human and sexual trafficking victims.

(b) A law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (r), and (s), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;
(2) conduct a search or a seizure of a person or property; or
(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(k).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, interacting with individuals with autism, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, autism, developmental disabilities, and Alzheimer's disease or related senile dementia, to be provided by persons approved by the secretary of family and social services and the board, and training

concerning human and sexual trafficking and high risk missing persons (as defined in IC 5-2-17-1). The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(6) The program must require training in interacting with individuals with autism.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Lawful use of force.

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(3) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;

(3) is hired under subdivision (1) in an upper level policymaking position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

(p) Subject to subsection (q), an officer to whom subsection (n) or (o) applies must successfully complete the refresher course described in subsection (n) or (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) A law enforcement officer who has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) or (o) and must repeat the full basic training course to regain law enforcement powers. However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) or (o) and the pre-basic training course established under subsection (f).

(r) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction

with the board.

(s) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(t) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

(u) This subsection applies only to a correctional police officer employed by the department of correction. A correctional police officer may exercise the police powers described in subsection (d) if:

(1) the officer successfully completes the pre-basic course described in subsection (f); and

(2) the officer successfully completes any other training courses established by the department of correction in conjunction with the board.

(v) This subsection applies to the following:

(1) Minimum basic training program required under subsection (d).

(2) Mandatory inservice training program required under subsection (g).

(3) Town marshal basic training program required under subsection (h).

(4) Police chief executive training program required under subsection (j).

(5) Any other training program for which the board adopts standards.

After December 31, 2015, the standards adopted by the board for each program described in this subsection must include requirements for mandatory training in identifying, responding to, and reporting bias motivated crimes in which the person who committed the offense selected the victim who was injured or whose property was damaged or otherwise affected because of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender, or gender identity of the victim.

SECTION 2. IC 10-13-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. As used in this chapter, "bias **motivated** crime" means an offense in which the person who commits the offense ~~knowingly or~~ intentionally:

(1) selected the person who was injured; or

(2) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, ~~or~~ sexual orientation, **gender, or gender identity** of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

SECTION 3. IC 10-13-3-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 38. (a) A law enforcement agency shall collect information concerning bias **motivated** crimes.

(b) At least two (2) times each year, a law enforcement agency shall submit information collected under subsection (a) to the Indiana central repository for criminal history information. Information shall be reported in the manner and form prescribed by the department.

(c) A law enforcement agency shall submit data regarding the commission of bias motivated crimes to the Federal Bureau of Investigation in accordance with guidelines established under 28 U.S.C. 534.

~~(c)~~ **(d)** At least one (1) time each year, the Indiana central repository for criminal history information shall submit a report that includes a compilation of information obtained under subsection (b) to each law

enforcement agency and to the legislative council. A report submitted to a law enforcement agency and the legislative council under this subsection may not contain the name of a person who:

(1) committed or allegedly committed a bias **motivated** crime; or

(2) was the victim or the alleged victim of a bias **motivated** crime.

A report submitted to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

~~(d)~~ **(e)** Except as provided in ~~subsection (c),~~ **subsections (c) and (f),** information collected, submitted, and reported under this section must be consistent with guidelines established for the acquisition, preservation, and exchange of identification records and information by:

(1) the Attorney General of the United States; or

(2) the Federal Bureau of Investigation;

under 28 U.S.C. 534 and the Hate Crime Statistics Act, as amended (28 U.S.C. 534 note).

~~(e)~~ **(f)** Information submitted under subsection (b) and reports issued under subsection ~~(c)~~ **(d)** shall, in conformity with guidelines prescribed by the department,

~~(1)~~ be separated in reports on the basis of whether it is an alleged crime, a charged crime, or a crime for which a conviction has been obtained. ~~and~~

~~(2) be divided in reports on the basis of whether, in the opinion of the reporting individual and the data collectors, bias was the primary motivation for the crime or only incidental to the crime.~~

SECTION 4. IC 11-8-8-1.8, AS ADDED BY P.L.119-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.8. As used in this chapter, "social networking web site username" means an identifier or profile that allows a person to create, use, or modify a social networking web site, as defined in IC ~~35-42-4-12.~~ **IC 35-31.5-2-307.**

SECTION 5. IC 34-6-2-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 21. (a) "Child", for purposes of IC 34-23-2, has the meaning set forth in IC 34-23-2.

(b) "Child", for purposes of IC 34-30-11, includes a child of any age.

(c) "Child", for purposes of **IC 34-24-5 and** IC 34-31-4, means an unemancipated person who is less than eighteen (18) years of age.

SECTION 6. IC 34-24-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 5. Civil Action for Victims of Bias Motivated Acts

Sec. 1. This chapter applies only to causes of action that accrue after June 30, 2015.

Sec. 2. As used in this chapter, "bias motivated offender" means a person:

(1) who:

(A) committed an act that injured an individual; and

(B) selected the individual as the victim of the act because of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender, or gender identity of the victim; or

(2) who:

(A) committed an act that damaged or otherwise affected property; and

(B) damaged or otherwise affected the property because of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender, or gender identity of the individual who owned or occupied the property.

Sec. 3. If an individual suffers a pecuniary loss because of the commission of an act by a bias motivated offender, the individual may bring a civil action against the person who caused the loss.

Sec. 4. An individual bringing an action under section 3 of this chapter may seek to recover the following:

(1) Actual, compensatory, and consequential damages, including damages for emotional distress.

(2) Punitive damages.

(3) The costs of the action.

(4) Reasonable attorney's fees.

Sec. 5. Notwithstanding IC 34-31-4, a parent or guardian of a child is liable for damages awarded under this chapter if:

(1) the child is a bias motived offender liable for damages awarded under this chapter;

(2) the parent or guardian has custody of the child; and

(3) the child is living with the parent or guardian.

Sec. 6. This chapter does not limit a person's rights or remedies under any other state or federal law.

SECTION 7. IC 35-31.5-2-27.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 27.7. "Bias motivated crime" means an offense in which the person who committed the offense intentionally:**

(1) selected the person who was injured by the offense; or

(2) damaged or otherwise affected property by the offense;

because of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender, or gender identity of the injured person or of the owner or occupant of the affected property.

SECTION 8. IC 35-42-2-1, AS AMENDED BY P.L.147-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) As used in this section, "public safety official" means:

(1) a law enforcement officer, including an alcoholic beverage enforcement officer;

(2) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71);

(3) an employee of the department of correction;

(4) a probation officer;

(5) a parole officer;

(6) a community corrections worker;

(7) a home detention officer;

(8) a department of child services employee;

(9) a firefighter;

(10) an emergency medical services provider; or

(11) a judicial officer.

(b) Except as provided in subsections (c) through (j), a person who knowingly or intentionally:

(1) touches another person in a rude, insolent, or angry manner; or

(2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person;

commits battery, a Class B misdemeanor.

(c) The offense described in subsection (b)(1) or (b)(2) is a Class A misdemeanor if it:

(1) results in bodily injury to any other person; **or**

(2) is a bias motivated crime.

(d) The offense described in subsection (b)(1) or (b)(2) is a Level 6 felony if one (1) or more of the following apply:

(1) The offense results in moderate bodily injury to any other person.

(2) The offense is committed against a public safety official while the official is engaged in the official's official duty.

(3) The offense is committed against a person less than fourteen (14) years of age and is committed by a person at least eighteen

(18) years of age.

(4) The offense is committed against 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 the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(5) The offense is committed against an endangered adult (as defined in IC 12-10-3-2).

(6) The offense is committed against a family or household member (as defined in IC 35-31.5-2-128) if the person who committed the offense:

(A) is at least eighteen (18) years of age; and

(B) 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.

(e) The offense described in subsection (b)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus.

(f) The offense described in subsection (b)(1) or (b)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to another person.

(2) The offense is committed with a deadly weapon.

(3) The offense results in bodily injury to a pregnant woman if the person knew of the pregnancy.

(4) The person has a previous conviction for battery against the same victim.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A public safety official while the official is engaged in the official's official duties.

(B) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(C) A person who has a mental or physical disability if the offense is committed by an individual having care of the person with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(D) An endangered adult (as defined in IC 12-10-3-2).

(g) The offense described in subsection (b)(2) is a Level 5 felony if:

(1) the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus; and

(2) the person placed the bodily fluid or waste on a public safety official.

(h) The offense described in subsection (b)(1) or (b)(2) is a Level 4 felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2).

(i) The offense described in subsection (b)(1) or (b)(2) is a Level 3 felony if it results in serious bodily injury to a person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(j) The offense described in subsection (b)(1) or (b)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) An endangered adult (as defined in IC 12-10-3-2).

SECTION 9. IC 35-42-2-1.5, AS AMENDED BY P.L.158-2013, SECTION 422, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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 Level 3 felony. However, the offense is **a Level 2 felony if it is a bias motivated crime and** a Level 1 felony if it results in the death of a child less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

SECTION 10. IC 35-42-2-9, AS AMENDED BY P.L.158-2013, SECTION 432, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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 Level 6 felony.

(c) The offense under subsection (b) is a Level 5 felony if it is a bias motivated crime.

SECTION 11. IC 35-42-3-2, AS AMENDED BY P.L.158-2013, SECTION 433, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) A person who knowingly or

intentionally removes another person, by fraud, enticement, force, or threat of force, from one place to another commits kidnapping. Except as provided in subsection (b), the offense of kidnapping is a Level 6 felony.

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

(1) a Level 5 felony if:

(A) the person removed is less than fourteen (14) years of age and is not the removing person's child;

(B) it is committed by using a vehicle; ~~or~~

(C) it results in bodily injury to a person other than the removing person; **or**

(D) it is a bias motivated crime;

(2) a Level 3 felony if it:

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

(B) results in serious bodily injury to a person other than the removing person; or

(C) is committed on an aircraft; and

(3) a Level 2 felony if it is committed:

(A) with intent to obtain ransom;

(B) while hijacking a vehicle;

(C) with intent to obtain the release, or intent to aid in the escape, of any person from lawful incarceration; or

(D) with intent to use the person removed as a shield or hostage.

SECTION 12. IC 35-42-3-3, AS AMENDED BY P.L.158-2013, SECTION 434, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) A person who knowingly or intentionally confines another person without the other person's consent commits criminal confinement. Except as provided in subsection (b), the offense of criminal confinement is a Level 6 felony.

(b) The offense of criminal confinement defined in subsection (a) is:

(1) a Level 5 felony if:

(A) the person confined is less than fourteen (14) years of age and is not the confining person's child;

(B) it is committed by using a vehicle; ~~or~~

(C) it results in bodily injury to a person other than the confining person; **or**

(D) it is a bias motivated crime;

(2) a Level 3 felony if it:

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

(B) results in serious bodily injury to a person other than the

confining person; or

(C) is committed on an aircraft; and

(3) a Level 2 felony if it is committed:

(A) with intent to obtain ransom;

(B) while hijacking a vehicle;

(C) with intent to obtain the release, or intent to aid in the escape, of any person from lawful incarceration; or

(D) with intent to use the person confined as a shield or hostage.

SECTION 13. IC 35-42-5-1, AS AMENDED BY P.L.158-2013, SECTION 450, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. A person who knowingly or intentionally takes property from another person or from the presence of another person:

(1) by using or threatening the use of force on any person; or

(2) by putting any person in fear;

commits robbery, a Level 5 felony. However, the offense is **a Level 4 felony if it is a bias motivated crime,** a Level 3 felony if it is committed while armed with a deadly weapon or results in bodily injury to any person other than a defendant, and a Level 2 felony if it results in serious bodily injury to any person other than a defendant.

SECTION 14. IC 35-43-1-1, AS AMENDED BY P.L.168-2014, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages:

(1) a dwelling of another person without the other person's consent;

(2) property of any person under circumstances that endanger human life;

(3) property of another person without the other person's consent if the pecuniary loss is at least five thousand dollars ($5,000); or

(4) a structure used for religious worship without the consent of the owner of the structure;

commits arson, a Level 4 felony. However, the offense is a Level 3 felony if it results in bodily injury to any person other than a defendant **or it is a bias motivated crime,** and a Level 2 felony if it results in serious bodily injury to any person other than a defendant.

(b) A person who commits arson for hire commits a Level 4 felony. However, the offense is:

(1) a Level 3 felony if it results in bodily injury to any other person; and

(2) a Level 2 felony if it results in serious bodily injury to any

other person.

(c) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages property of any person with intent to defraud commits arson, a Level 6 felony.

(d) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages property of another person without the other person's consent so that the resulting pecuniary loss is at least two hundred fifty dollars ($250) but less than five thousand dollars ($5,000) commits arson, a Level 6 felony.

(e) A person who commits an offense under subsection (a), (b), (c), or (d) commits a separate offense for each person who suffers a bodily injury or serious bodily injury that is caused by the violation of subsection (a), (b), (c), or (d).

SECTION 15. IC 35-43-1-2, AS AMENDED BY P.L.21-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) A person who recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent commits criminal mischief, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

(A) the pecuniary loss is at least seven hundred fifty dollars ($750) but less than fifty thousand dollars ($50,000); **or**

(B) it is a bias motivated crime; and

(2) a Level 6 felony if:

(A) the pecuniary loss is at least fifty thousand dollars ($50,000);

(B) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(C) the damage is to a public record; or

(D) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5).

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

(1) a structure used for religious worship;

(2) a school or community center;

(3) the property of an agricultural operation (as defined in IC 32-30-6-1);

(4) the grounds:

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivisions (1) through (3); or

(5) personal property contained in a structure or located at a facility identified in subdivisions (1) through (3);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Level 6 felony if the pecuniary loss (or property damage, in the case of an agricultural operation) is at least seven hundred fifty dollars ($750) but less than fifty thousand dollars ($50,000), and a Level 5 felony if the pecuniary loss (or property damage, in the case of an agricultural operation) is at least fifty thousand dollars ($50,000).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that the person has removed or painted over the graffiti or has made other suitable restitution.

SECTION 16. IC 35-43-2-1, AS AMENDED BY P.L.158-2013, SECTION 460, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. A person who breaks and enters the building or structure of another person, with intent to commit a felony or theft in it, commits burglary, a Level 5 felony. However, the offense is:

(1) a Level 4 felony if:

(A) the building or structure is a dwelling; **or**

(B) it is a bias motivated crime;

(2) a Level 3 felony if it results in bodily injury to any person other than a defendant;

(3) a Level 2 felony if it:

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

(B) results in serious bodily injury to any person other than a defendant; and

(4) a Level 1 felony if:

(A) the building or structure is a dwelling; and

(B) it results in serious bodily injury to any person other than a defendant.

SECTION 17. IC 35-43-2-1.5, AS AMENDED BY P.L.158-2013, SECTION 461, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. **(a)** A person who knowingly or intentionally breaks and enters the dwelling of another person commits residential entry, a Level 6 felony.

(b) The offense under subsection (a) is a Level 5 felony if it is a bias motivated crime.

SECTION 18. IC 35-43-2-2, AS AMENDED BY P.L.21-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) As used in this section, "authorized person" means a person authorized by an agricultural operation to act on behalf of the agricultural operation.

(b) A person who:

(1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;

(2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the:

(A) property of an agricultural operation that is used for the production, processing, propagation, packaging, cultivation, harvesting, care, management, or storage of an animal, plant, or other agricultural product, including any pasturage or land used for timber management, without the consent of the owner of the agricultural operation or an authorized person; or

(B) dwelling of another person without the person's consent;

(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad carrier's consent; and

(B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

(7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is vacant or designated by a municipality or county enforcement

authority to be abandoned property or an abandoned structure (as defined in IC 36-7-36-1);

(8) not having a contractual interest in the property, knowingly or intentionally enters the real property of an agricultural operation (as defined in IC 32-30-6-1) without the permission of the owner of the agricultural operation or an authorized person, and knowingly or intentionally engages in conduct that causes property damage to:

(A) the owner of or a person having a contractual interest in the agricultural operation;

(B) the operator of the agricultural operation; or

(C) a person having personal property located on the property of the agricultural operation; or

(9) knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be a vacant property, an abandoned property, or an abandoned structure (as defined in IC 36-7-36-1);

commits criminal trespass, a Class A misdemeanor. However, the offense is a Level 6 felony if it is committed on a scientific research facility, on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property, **or the offense is a bias motivated crime.** The offense is a Level 6 felony, for purposes of subdivision (8), if the property damage is more than seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000). The offense is a Level 5 felony, for purposes of subdivision (8), if the property damage is at least fifty thousand dollars ($50,000).

(c) A person has been denied entry under subsection (b)(1) when the person has been denied entry by means of:

(1) personal communication, oral or written;

(2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; or

(3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

(d) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (b)(7) unless there is

reasonable suspicion that criminal activity has occurred or is occurring.

(e) A person described in subsection (b)(7) violates subsection (b)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

(f) A person described in subsection (b)(9) violates subsection (b)(9) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

(g) Subsections (b), (c), and (f) do not apply to the following:

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or

(B) person's:

(i) family member;

(ii) invitee;

(iii) employee;

(iv) agent; or

(v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

SECTION 19. IC 35-43-4-2, AS AMENDED BY P.L.152-2014,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class A misdemeanor. However, the offense is:

(1) a Level 6 felony if:

(A) the value of the property is at least seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000);

(B) the property is a firearm; ~~or~~

(C) the person has a prior unrelated conviction for:

(i) theft under this section; or

(ii) criminal conversion under section 3 of this chapter; **or**

(D) it is a bias motivated crime; and

(2) a Level 5 felony if:

(A) the value of the property is at least fifty thousand dollars ($50,000); or

(B) the property that is the subject of the theft is a valuable metal (as defined in IC 25-37.5-1-1) and:

(i) relates to transportation safety;

(ii) relates to public safety; or

(iii) is taken from a hospital or other health care facility, telecommunications provider, public utility (as defined in IC 32-24-1-5.9(a)), or key facility;

and the absence of the property creates a substantial risk of bodily injury to a person.

(b) In determining the value of property under this section, acts of theft committed in a single episode of criminal conduct (as defined in IC 35-50-1-2(b)) may be charged in a single count.

(c) For purposes of this section, "the value of property" means:

(1) the fair market value of the property at the time and place the offense was committed; or

(2) if the fair market value of the property cannot be satisfactorily determined, the cost to replace the property within a reasonable time after the offense was committed.

A price tag or price marking on property displayed or offered for sale constitutes prima facie evidence of the value of the property.

SECTION 20. IC 35-43-4-3, AS AMENDED BY P.L.158-2013, SECTION 467, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) A person who knowingly or intentionally exerts unauthorized control over property of another person commits criminal conversion, a Class A misdemeanor.

(b) The offense under subsection (a) is a Level 6 felony if:

(1) committed by a person who exerts unauthorized control over the motor vehicle of another person with the intent to use the motor vehicle to assist the person in the commission of a crime; **or**

(2) it is a bias motivated crime.

(c) The offense under subsection (a) is a Level 5 felony if:

(1) committed by a person who exerts unauthorized control over the motor vehicle of another person; and

(2) the person uses the motor vehicle to assist the person in the commission of a felony.

(d) The offense under subsection (a) is a Level 6 felony if:

(1) the person acquires the property by lease;

(2) the property is a motor vehicle;

(3) the person signs a written agreement to return the property to a specified location within a specified time; and

(4) the person fails to return the property:

(A) within thirty (30) days after the specified time; or

(B) within three (3) days after a written demand for return of the property is either:

(i) personally served on the person; or

(ii) sent by registered mail to the person's address that is provided by the person in the written agreement.

SECTION 21. IC 35-45-2-1, AS AMENDED BY P.L.168-2014, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) A person who communicates a threat to another person, with the intent:

(1) that the other person engage in conduct against the other person's will;

(2) that the other person be placed in fear of retaliation for a prior lawful act; or

(3) of:

(A) causing:

(i) a dwelling, a building, or other structure; or

(ii) a vehicle;

to be evacuated; or

(B) interfering with the occupancy of:

(i) a dwelling, building, or other structure; or

(ii) a vehicle;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

(1) Level 6 felony if:

(A) the threat is to commit a forcible felony;

(B) the person to whom the threat is communicated:

(i) is a law enforcement officer;

(ii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;

(iii) is an employee of a school or school corporation;

(iv) is a community policing volunteer;

(v) is an employee of a court;

(vi) is an employee of a probation department;

(vii) is an employee of a community corrections program;

(viii) is an employee of a hospital, church, or religious organization; or

(ix) is a person that owns a building or structure that is open to the public or is an employee of the person;

and, except as provided in item (ii), the threat is communicated to the person because of the occupation, profession, employment status, or ownership status of the person as described in items (i) through (ix) or based on an act taken by the person within the scope of the occupation, profession, employment status, or ownership status of the person;

(C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; ~~or~~

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; **or**

(E) it is a bias motivated crime; and

(2) Level 5 felony if:

(A) while committing it, the person draws or uses a deadly weapon; or

(B) the person to whom the threat is communicated:

(i) is a judge or bailiff of any court; or

(ii) is a prosecuting attorney or a deputy prosecuting attorney.

(c) "Communicates" includes posting a message electronically, including on a social networking web site (as defined in ~~IC 35-42-4-12(d)).~~ **IC 35-31.5-2-307).**

(d) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or

restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of the person threatened; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

SECTION 22. IC 35-45-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) A person who, with intent to harass, annoy, or alarm another person but with no intent of legitimate communication:

(1) makes a telephone call, whether or not a conversation ensues;

(2) communicates with a person by telegraph, mail, or other form of written communication;

(3) transmits an obscene message, or indecent or profane words, on a Citizens Radio Service channel; or

(4) uses a computer network (as defined in IC 35-43-2-3(a)) or other form of electronic communication to:

(A) communicate with a person; or

(B) transmit an obscene message or indecent or profane words to a person;

commits harassment, a Class B misdemeanor. **However, the offense is a Class A misdemeanor if it is a bias motivated crime.**

(b) A message is obscene if:

(1) the average person, applying contemporary community standards, finds that the dominant theme of the message, taken as a whole, appeals to the prurient interest in sex;

(2) the message refers to sexual conduct in a patently offensive way; and

(3) the message, taken as a whole, lacks serious artistic, literary, political, or scientific value.

SECTION 23. IC 35-45-10-5, AS AMENDED BY P.L.158-2013, SECTION 541, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) A person who stalks another person commits stalking, a Level 6 felony.

(b) The offense is a Level 5 felony if at least one (1) of the following applies:

(1) A person:
(A) stalks a victim; and
(B) makes an explicit or an implicit threat with the intent to place the victim in reasonable fear of:
(i) sexual battery (as defined in IC 35-42-4-8);
(ii) serious bodily injury; or
(iii) death.

(2) A protective order to prevent domestic or family violence, a no contact order, or other judicial order under any of the following statutes has been issued by the court to protect the same victim or victims from the person and the person has been given actual notice of the order:
(A) IC 31-15 and IC 34-26-5 or IC 31-1-11.5 before its repeal (dissolution of marriage and legal separation).
(B) IC 31-34, IC 31-37, or IC 31-6-4 before its repeal (delinquent children and children in need of services).
(C) IC 31-32 or IC 31-6-7 before its repeal (procedure in juvenile court).
(D) IC 34-26-5 or IC 34-26-2 and IC 34-4-5.1 before their repeal (protective order to prevent abuse).
(E) IC 34-26-6 (workplace violence restraining orders).

(3) The person's stalking of another person violates an order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion if the person has been given actual notice of the order.

(4) The person's stalking of another person violates a no contact order issued as a condition of probation if the person has been given actual notice of the order.

(5) The person's stalking of another person violates a protective order issued under IC 31-14-16-1 and IC 34-26-5 in a paternity action if the person has been given actual notice of the order.

(6) The person's stalking of another person violates an order issued in another state that is substantially similar to an order described in subdivisions (2) through (5) if the person has been given actual notice of the order.

(7) The person's stalking of another person violates an order that is substantially similar to an order described in subdivisions (2) through (5) 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 if the person has been given actual notice of the order.

(8) A criminal complaint of stalking that concerns an act by the person against the same victim or victims is pending in a court and the person has been given actual notice of the complaint.

(9) The offense is a bias motivated crime.

(c) The offense is a Level 4 felony if:

(1) the act or acts were committed while the person was armed with a deadly weapon; or

(2) the person has an unrelated conviction for an offense under this section against the same victim or victims.