

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1615

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 31-9-2-42, AS AMENDED BY P.L.171-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 42. "Domestic or family violence" means, except for an act of ~~self defense~~, **self-defense**, the occurrence of one (1) or more of the following acts committed by a family or household member:

- (1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member without legal justification.
- (2) Placing a family or household member in fear of physical harm without legal justification.
- (3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.
- (4) **Beating Abusing** (as described in ~~IC 35-46-3-0.5(2))~~, **IC 35-46-3-0.5**), torturing (as described in ~~IC 35-46-3-0.5(5))~~, **IC 35-46-3-0.5**), mutilating (as described in ~~IC 35-46-3-0.5(3))~~, **IC 35-46-3-0.5**), or killing a vertebrate animal without justification with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

For purposes of IC 22-4-15-1 and IC 34-26-5, domestic or family violence also includes stalking (as defined in IC 35-45-10-1) or a sex

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offense under IC 35-42-4, whether or not the stalking or sex offense is committed by a family or household member.

SECTION 2. IC 34-6-2-34.5, AS AMENDED BY P.L.171-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 34.5. "Domestic or family violence" means, except for an act of self-defense, the occurrence of at least one (1) of the following acts committed by a family or household member:

- (1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member.
- (2) Placing a family or household member in fear of physical harm.
- (3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.
- (4) **Beating Abusing** (as described in ~~IC 35-46-3-0.5(2)~~; **IC 35-46-3-0.5**), torturing (as described in ~~IC 35-46-3-0.5(5)~~; **IC 35-46-3-0.5**), mutilating (as described in ~~IC 35-46-3-0.5(3)~~; **IC 35-46-3-0.5**), or killing a vertebrate animal without justification with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

For purposes of IC 34-26-5, domestic and family violence also includes stalking (as defined in IC 35-45-10-1) or a sex offense under IC 35-42-4, whether or not the stalking or sex offense is committed by a family or household member.

SECTION 3. IC 35-31.5-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 1.5. "Abuse", for purposes of IC 35-46-3, has the meaning set forth in IC 35-46-3-0.5.**

SECTION 4. IC 35-31.5-2-26 IS REPEALED [EFFECTIVE JULY 1, 2019]. ~~Sec. 26. "Beat", for purposes of IC 35-46-3, has the meaning set forth in IC 35-46-3-0.5(2).~~

SECTION 5. IC 35-31.5-2-208, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 208. "Mutilate", for purposes of IC 35-46-3, has the meaning set forth in ~~IC 35-46-3-0.5(3)~~; **IC 35-46-3-0.5.**

SECTION 6. IC 35-31.5-2-210, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 210. "Neglect", for purposes of IC 35-46-3, has the meaning set forth in ~~IC 35-46-3-0.5(4)~~; **IC 35-46-3-0.5.**

SECTION 7. IC 35-31.5-2-335, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 335. "Torture", for purposes of IC 35-46-3, has the meaning set forth in ~~IC 35-46-3-0.5(5)~~; **IC 35-46-3-0.5.**

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SECTION 8. IC 35-46-3-0.5, AS AMENDED BY P.L.111-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Abandon" means to desert an animal or to leave the animal ~~permanently in a place~~ without making provision for adequate long term care of the animal. The term does not include leaving an animal in a place that is temporarily vacated for the protection of human life during a disaster.

(2) ~~"Beat"~~ **"Abuse"** means to ~~unnecessarily or cruelly knowingly or intentionally beat, strike, torment, injure, or otherwise harm~~ an animal. ~~or to throw the animal against an object causing the animal to suffer severe pain or injury.~~ The term does not include reasonable training or disciplinary techniques. **The term includes destruction of an animal by any means other than humane euthanasia if the person who destroys the animal is:**

(A) a humane society;

(B) an animal control agency; or

(C) a governmental entity operating an animal shelter or other animal impounding facility.

(3) **"Humane euthanasia"** means the humane destruction of an animal using sodium pentobarbital or a derivative, administered in a manner that causes painless loss of consciousness and death. The term does not include a method:

(A) prohibited by section 15 of this chapter; or

(B) involving the use of carbon monoxide, carbon dioxide, or any nonanesthetic inhalant.

~~(3)~~ (4) "Mutilate" means to wound, injure, maim, or disfigure an animal by ~~irreparably~~ damaging the animal's body parts or to render any part of the animal's body useless. The term includes bodily injury involving:

(A) serious permanent disfigurement;

(B) serious temporary disfigurement;

(C) permanent or protracted loss or impairment of the function of a bodily part or organ; or

(D) a fracture.

~~(4)~~ (5) "Neglect" means:

(A) endangering an animal's health by failing to provide or arrange to provide the animal with food or drink, if the animal is dependent upon the person for the provision of food or drink;

(B) restraining an animal for more than a brief period in a



manner that endangers the animal's life or health by the use of a rope, chain, or tether that:

- (i) is less than three (3) times the length of the animal;
- (ii) is too heavy to permit the animal to move freely; or
- (iii) causes the animal to choke;

(C) restraining an animal in a manner that seriously endangers the animal's life or health;

(D) failing to:

- (i) provide reasonable care for; or
- (ii) seek veterinary care for;

an injury or illness to a dog or cat that seriously endangers the life or health of the dog or cat; or

(E) leaving a dog or cat outside and exposed to:

- (i) excessive heat without providing the animal with a means of shade from the heat; or
- (ii) excessive cold if the animal is not provided with straw or another means of protection from the cold;

regardless of whether the animal is restrained or kept in a kennel.

~~(5)~~ **(6)** "Torture" means:

(A) to inflict extreme physical pain or injury on an animal with the intent of increasing or prolonging the animal's pain; ~~or~~

(B) to administer poison to a domestic animal (as defined in section 12(d) of this chapter) or expose a domestic animal to a poisonous substance with the intent that the domestic animal ingest the substance; ~~and suffer harm, pain, or physical injury.~~

(C) to destroy an animal by electrocution; or

(D) to intentionally freeze or heat an animal to death.

SECTION 9. IC 35-46-3-5, AS AMENDED BY P.L.111-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) Except as provided in subsections (b) through (c), this chapter does not apply to the following:

- (1) Fishing, hunting, trapping, or other conduct authorized under IC 14-22.
- (2) Conduct authorized under IC 15-20-2.
- (3) Veterinary practices authorized by standards adopted under IC 25-38.1-2-14.
- (4) Conduct authorized by a local ordinance.
- (5) Acceptable farm management practices.
- (6) Conduct authorized by IC 15-17, and rules adopted under IC 15-17 for state or federally inspected livestock slaughtering facilities and state or federal animal disease control programs.



(7) A research facility registered with the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. 2131 et seq.).

(8) Destruction of a vertebrate defined as a pest under IC 15-16-5-24.

(9) Destruction of or injury to a fish.

(10) Destruction of a vertebrate animal that is:

(A) endangering, harassing, or threatening livestock or a domestic animal; or

(B) destroying or damaging a person's property.

(11) ~~Destruction of an animal by an animal control program, including an animal control facility, an animal shelter, or a humane society.~~ **Humane euthanasia of an animal by:**

(A) a humane society;

(B) an animal control agency; or

(C) a governmental entity operating an animal shelter or other animal impounding facility.

(12) Destruction of an injured or ill animal by an individual to prevent the animal from prolonged suffering.

(13) Conduct not resulting in serious injury or illness to the animal that is incidental to exhibiting an animal for show, competition, or display, or that is incidental to transporting the animal for show, competition, or display.

(14) Parking an animal.

(15) Humane destruction of an animal that the person owns.

(b) Section 1 of this chapter applies to conduct described in subsection (a).

(c) Destruction of an animal by electrocution is authorized under this section only if it is conducted by a person who is engaged in an acceptable farm management practice, by a research facility registered with the United States Department of Agriculture under the Animal Welfare Act, or for the animal disease diagnostic laboratory established under IC 21-46-3-1, a research facility licensed by the United States Department of Agriculture, a college, or a university.

SECTION 10. IC 35-46-3-12, AS AMENDED BY P.L.158-2013, SECTION 566, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 12. (a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

(1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and



(2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally ~~beats~~ **abuses** a vertebrate animal commits cruelty to an animal, a Class A misdemeanor. However, the offense is a Level 6 felony if:

- (1) the person has a previous, unrelated conviction under this section; or
- (2) the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

(c) A person who knowingly or intentionally tortures or mutilates a vertebrate animal commits torturing or mutilating a vertebrate animal, a Level 6 felony.

(d) As used in this subsection, "domestic animal" means an animal that is not wild. The term is limited to:

- (1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus; and
- (2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species.

A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Level 6 felony.

(e) It is a defense to a prosecution under this section that the accused person:

- (1) reasonably believes the conduct was necessary to:
 - (A) prevent injury to the accused person or another person;
 - (B) protect the property of the accused person from destruction or substantial damage; or
 - (C) prevent a seriously injured vertebrate animal from prolonged suffering; or
- (2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

(f) When a court imposes a sentence or enters a dispositional decree under this section, the court:

- (1) shall consider requiring:
 - (A) a person convicted of an offense under this section; or
 - (B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult;

to receive psychological, behavioral, or other counseling as a part



of the sentence or dispositional decree; and
 (2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.

SECTION 11. IC 35-46-3-15, AS ADDED BY P.L.2-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. (a) This section does not apply to the following:

- (1) A state or federally inspected livestock slaughtering facility (for conduct authorized by IC 15-17-5 and rules adopted under that chapter).
- (2) An animal disease diagnostic laboratory established under IC 21-46-3-1.
- (3) A postsecondary educational institution.
- (4) A research facility licensed by the United States Department of Agriculture.

(b) As used in this section, "animal" has the meaning set forth in IC 35-46-3-3.

(c) A person who knowingly or intentionally destroys or authorizes the destruction of an animal by

(1) placing the animal in a decompression chamber and lowering the pressure of or the oxygen content in the air surrounding the animal or

(2) electrocution;

commits a Class B misdemeanor.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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