

## APPENDIX 2

Here are the statutes referenced in IC 31-34-21-5.6, the statute which lists exceptions to the reasonable efforts requirement. The statutes are current as of 2017.

### **IC 35-42-1-1 Murder**

Sec. 1. A person who:

- (1) knowingly or intentionally kills another human being;
  - (2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct (under IC 35-42-4-2 before its repeal), kidnapping, rape, robbery, human trafficking, promotion of human trafficking, sexual trafficking of a minor, or carjacking (before its repeal);
  - (3) kills another human being while committing or attempting to commit:
    - (A) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
    - (B) dealing in methamphetamine (IC 35-48-4-1.1);
    - (C) manufacturing methamphetamine (IC 35-48-4-1.2);
    - (D) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
    - (E) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
    - (F) dealing in a schedule V controlled substance; or
  - (4) knowingly or intentionally kills a fetus that has attained viability (as defined in IC 16-18-2-365);
- commits murder, a felony.

### **IC 35-42-1-2 Causing suicide**

Sec. 2. A person who intentionally causes another human being, by force, duress, or deception, to commit suicide commits causing suicide, a Level 3 felony.

### **IC 35-42-1-3 Voluntary manslaughter**

Sec. 3. (a) A person who knowingly or intentionally:

- (1) kills another human being; or
  - (2) kills a fetus that has attained viability (as defined in IC 16-18-2-365);
- while acting under sudden heat commits voluntary manslaughter, a Level 2 felony.

(b) The existence of sudden heat is a mitigating factor that reduces what otherwise would be murder under section 1(1) of this chapter to voluntary manslaughter.

### **IC 35-42-1-4 Involuntary manslaughter**

Sec. 4. (a) As used in this section, "fetus" means a fetus that has attained viability (as defined in IC 16-18-2-365).

(b) A person who kills another human being while committing or attempting to commit:

- (1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;
- (2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or
- (3) battery;

commits involuntary manslaughter, a Level 5 felony.

(c) A person who kills a fetus while committing or attempting to commit:

- (1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;
- (2) a Class A misdemeanor that inherently poses a risk of serious bodily injury;
- (3) a battery offense included in IC 35-42-2; or
- (4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a vehicle while intoxicated);

commits involuntary manslaughter, a Level 5 felony.

### **IC 35-42-4-1 Rape**

Sec. 1. (a) Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with another person or knowingly or intentionally causes another person to perform or submit to other sexual conduct (as defined in IC 35-31.5-2-221.5) when:

- (1) the other person is compelled by force or imminent threat of force;

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(2) the other person is unaware that the sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) is occurring; or

(3) the other person is so mentally disabled or deficient that consent to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) cannot be given;

commits rape, a Level 3 felony.

(b) An offense described in subsection (a) is a Level 1 felony if:

(1) it is committed by using or threatening the use of deadly force;

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

(3) it results in serious bodily injury to a person other than a defendant; or

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

### **IC 35-42-4-3 Child molesting**

Sec. 3. (a) A person who, with a child under fourteen (14) years of age, knowingly or intentionally performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) commits child molesting, a Level 3 felony. However, the offense is a Level 1 felony if:

(1) it is committed by a person at least twenty-one (21) years of age;

(2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(3) it results in serious bodily injury;

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; or

(5) it results in the transmission of a dangerous sexually transmitted disease and the person knew that the person was infected with the disease.

(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Level 4 felony. However, the offense is a Level 2 felony if:

(1) it is committed by using or threatening the use of deadly force;

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

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person may be convicted of attempted child molesting of an individual at least fourteen (14) years of age if the person believed the individual to be a child under fourteen (14) years of age at the time the person attempted to commit the offense.

(d) It is a defense to a prosecution under this section that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct, unless:

(1) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(2) the offense results in serious bodily injury; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

### **IC 35-42-4-4 Child exploitation; possession of child pornography; exemptions; defenses**

Sec. 4. (a) The following definitions apply throughout this section:

(1) "Disseminate" means to transfer possession for free or for a consideration.

(2) "Matter" has the same meaning as in IC 35-49-1-3.

(3) "Performance" has the same meaning as in IC 35-49-1-7.

(4) "Sexual conduct" means:

(A) sexual intercourse;

(B) other sexual conduct (as defined in IC 35-31.5-2-221.5);

(C) exhibition of the:

(i) uncovered genitals; or

(ii) female breast with less than a fully opaque covering of any part of the nipple;

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intended to satisfy or arouse the sexual desires of any person;

(D) sadomasochistic abuse;

(E) sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with an animal; or

(F) any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

(b) A person who:

(1) knowingly or intentionally manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;

(2) knowingly or intentionally disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age;

(3) knowingly or intentionally makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age; or

(4) with the intent to satisfy or arouse the sexual desires of any person:

(A) knowingly or intentionally:

(i) manages;

(ii) produces;

(iii) sponsors;

(iv) presents;

(v) exhibits;

(vi) photographs;

(vii) films;

(viii) videotapes; or

(ix) creates a digitized image of;

any performance or incident that includes the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age;

(B) knowingly or intentionally:

(i) disseminates to another person;

(ii) exhibits to another person;

(iii) offers to disseminate or exhibit to another person; or

(iv) sends or brings into Indiana for dissemination or exhibition;

matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age; or

(C) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age;

commits child exploitation, a Level 5 felony.

(c) However, the offense of child exploitation described in subsection (b) is a Level 4 felony if:

(1) the sexual conduct, matter, performance, or incident depicts or describes a child less than eighteen (18) years of age who:

(A) engages in bestiality (as described in IC 35-46-3-14);

(B) is mentally disabled or deficient;

(C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;

(D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;

(E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or

(F) is less than twelve (12) years of age; or

(2) the child less than eighteen (18) years of age:

(A) engages in bestiality (as described in IC 35-46-3-14);

(B) is mentally disabled or deficient;

(C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;

(D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;

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- (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
- (F) is less than twelve (12) years of age.

(d) A person who knowingly or intentionally possesses or accesses with intent to view:

- (1) a picture;
- (2) a drawing;
- (3) a photograph;
- (4) a negative image;
- (5) undeveloped film;
- (6) a motion picture;
- (7) a videotape;
- (8) a digitized image; or
- (9) any pictorial representation;

that depicts or describes sexual conduct by a child who the person knows is less than eighteen (18) years of age or who appears to be less than eighteen (18) years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Level 6 felony.

(e) However, the offense of possession of child pornography described in subsection (d) is a Level 5 felony if:

- (1) the item described in subsection (d)(1) through (d)(9) depicts or describes sexual conduct by a child who the person knows is less than eighteen (18) years of age, or who appears to be less than eighteen (18) years of age, who:

- (A) engages in bestiality (as described in IC 35-46-3-14);
- (B) is mentally disabled or deficient;
- (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
- (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;
- (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
- (F) is less than twelve (12) years of age; or

(2) the child whose sexual conduct is depicted or described in an item described in subsection (d)(1) through (d)(9):

- (A) engages in bestiality (as described in IC 35-46-3-14);
- (B) is mentally disabled or deficient;
- (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
- (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;
- (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
- (F) is less than twelve (12) years of age.

(f) Subsections (b), (c), (d), and (e) do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.

(g) It is a defense to a prosecution under this section that:

- (1) the person is a school employee; and
- (2) the acts constituting the elements of the offense were performed solely within the scope of the person's employment as a school employee.

(h) Except as provided in subsection (i), it is a defense to a prosecution under subsection (b), (c), (d), or (e) if all of the following apply:

(1) A cellular telephone, another wireless or cellular communications device, or a social networking web site was used to possess, produce, or disseminate the image.

(2) The defendant is not more than four (4) years older or younger than the person who is depicted in the image or who received the image.

(3) The relationship between the defendant and the person who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.

(4) The crime was committed by a person less than twenty-two (22) years of age.

(5) The person receiving the image or who is depicted in the image acquiesced in the defendant's conduct.

(i) The defense to a prosecution described in subsection (h) does not apply if:

- (1) the person who receives the image disseminates it to a person other than the person:
  - (A) who sent the image; or
  - (B) who is depicted in the image;

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- (2) the image is of a person other than the person who sent the image or received the image; or
- (3) the dissemination of the image violates:
  - (A) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);
  - (B) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
  - (C) a workplace violence restraining order issued under IC 34-26-6;
  - (D) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
  - (E) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;
  - (F) a no contact order issued as a condition of probation;
  - (G) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);
  - (H) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
  - (I) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
  - (J) an order issued in another state that is substantially similar to an order described in clauses (A) through (I);
  - (K) an order that is substantially similar to an order described in clauses (A) through (I) and is issued by an Indian:
    - (i) tribe;
    - (ii) band;
    - (iii) pueblo;
    - (iv) nation; or
    - (v) 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;
  - (L) an order issued under IC 35-33-8-3.2; or
  - (M) an order issued under IC 35-38-1-30.
- (j) It is a defense to a prosecution under this section that:
  - (1) the person was less than eighteen (18) years of age at the time the alleged offense was committed; and
  - (2) the circumstances described in IC 35-45-4-6(a)(2) through IC 35-45-4-6(a)(4) apply.
- (k) A person is entitled to present the defense described in subsection (j) in a pretrial hearing. If a person proves by a preponderance of the evidence in a pretrial hearing that the defense described in subsection (j) applies, the court shall dismiss the charges under this section with prejudice.

### **IC 35-42-4-9 Sexual misconduct with a minor**

Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) commits sexual misconduct with a minor, a Level 5 felony. However, the offense is:

- (1) a Level 4 felony if it is committed by a person at least twenty-one (21) years of age; and
  - (2) a Level 1 felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
- (b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Level 6 felony. However, the offense is:
- (1) a Level 5 felony if it is committed by a person at least twenty-one (21) years of age; and

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(2) a Level 2 felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(d) It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(e) It is a defense to a prosecution under this section if all the following apply:

(1) The person is not more than four (4) years older than the victim.

(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(3) The crime:

(A) was not committed by a person who is at least twenty-one (21) years of age;

(B) was not committed by using or threatening the use of deadly force;

(C) was not committed while armed with a deadly weapon;

(D) did not result in serious bodily injury;

(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(F) was not committed by a person having a position of authority or substantial influence over the victim.

(4) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.

### **IC 35-46-1-3 Incest**

Sec. 3. (a) A person eighteen (18) years of age or older who engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with another person, when the person knows that the other person is related to the person biologically as a parent, child, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew, commits incest, a Level 5 felony. However, the offense is a Level 4 felony if the other person is less than sixteen (16) years of age.

(b) It is a defense that the accused person's otherwise incestuous relation with the other person was based on their marriage, if the marriage was valid where it was entered into.

### **IC 35-42-2-1 Battery**

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) As used in this section, "relative" means an individual related by blood, half-blood, adoption, marriage, or remarriage, including:

(1) a spouse;

(2) a parent or stepparent;

(3) a child or stepchild;

(4) a grandchild or stepgrandchild;

(5) a grandparent or stepgrandparent;

(6) a brother, sister, stepbrother, or stepsister;

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- (7) a niece or nephew;
  - (8) an aunt or uncle;
  - (9) a daughter-in-law or son-in-law;
  - (10) a mother-in-law or father-in-law; or
  - (11) a first cousin.
- (c) Except as provided in subsections (d) through (k), 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.
- (d) The offense described in subsection (c)(1) or (c)(2) is a Class A misdemeanor if it:
- (1) results in bodily injury to any other person; or
  - (2) is committed against a member of a foster family home (as defined in IC 35-31.5-2-139.3) by a person who is not a resident of the foster family home if the person who committed the offense is a relative of a person who lived in the foster family home at the time of the offense.
- (e) The offense described in subsection (c)(1) or (c)(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:
    - (A) is committed against a member of a foster family home (as defined in IC 35-31.5-2-139.3) by a person who is not a resident of the foster family home if the person who committed the offense is a relative of a person who lived in the foster family home at the time of the offense; and
    - (B) results in bodily injury to the member of the foster family.
- (f) The offense described in subsection (c)(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.
- (g) The offense described in subsection (c)(1) or (c)(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 a battery offense:
    - (A) included in this chapter against the same victim; or
    - (B) against the same victim 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 of a battery offense included in this chapter.
  - (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).
- (h) The offense described in subsection (c)(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.

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(i) The offense described in subsection (c)(1) or (c)(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).

(j) The offense described in subsection (c)(1) or (c)(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.

(k) The offense described in subsection (c)(1) or (c)(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).

### **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 Level 3 felony. However, the offense is 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.

### **IC 35-42-2-2 Criminal recklessness; element of hazing; liability barred for good faith report or judicial participation**

Sec. 2. (a) A person who recklessly, knowingly, or intentionally performs an act that creates a substantial risk of bodily injury to another person commits criminal recklessness. Except as provided in subsection (b), criminal recklessness is a Class B misdemeanor.

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

(1) a Level 6 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

(2) a Level 5 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.

### **IC 35-46-1-4 Neglect of a dependent; child selling**

Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

(1) places the dependent in a situation that endangers the dependent's life or health;

(2) abandons or cruelly confines the dependent;

(3) deprives the dependent of necessary support; or

(4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Level 6 felony.

(b) However, the offense is:

(1) a Level 5 felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and:

(A) results in bodily injury; or

(B) is:

(i) committed in a location where a person is violating IC 35-48-4-1 (dealing in cocaine or a narcotic drug), IC 35-48-4-1.1 (dealing in methamphetamine), or IC 35-48-4-1.2 (manufacturing methamphetamine); or

(ii) the result of a violation of IC 35-48-4-1 (dealing in cocaine or a narcotic drug), IC 35-48-4-1.1 (dealing in methamphetamine), or IC 35-48-4-1.2 (manufacturing methamphetamine);

(2) a Level 3 felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

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(3) a Level 1 felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age or in the death of a dependent of any age who has a mental or physical disability; and

(4) a Level 5 felony if it is committed under subsection (a)(2) and consists of cruel confinement or abandonment that:

(A) deprives a dependent of necessary food, water, or sanitary facilities;

(B) consists of confinement in an area not intended for human habitation; or

(C) involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar device to physically restrain a dependent.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age:

(A) in a newborn safety device described in IC 31-34-2.5-1(a)(1)(B) or IC 31-34-2.5-1(a)(1)(C); or

(B) with a person who is an emergency medical services provider (as defined in IC 16-41-10-1) who took custody of the child under IC 31-34-2.5;

when the prosecution is based solely on the alleged act of leaving the child in the newborn safety device or with the emergency medical services provider and the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under section 9(d) of this chapter;

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Level 6 felony.

### **IC 35-42-3.5-1 Promotion of human trafficking; sexual trafficking of a minor; human trafficking**

Sec. 1. (a) A person who, by force, threat of force, or fraud, knowingly or intentionally recruits, harbors, or transports another person:

(1) to engage the other person in:

(A) forced labor; or

(B) involuntary servitude; or

(2) to force the other person into:

(A) marriage;

(B) prostitution; or

(C) participating in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking, a Level 4 felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:

(1) eighteen (18) years of age with the intent of:

(A) engaging the child in:

(i) forced labor; or

(ii) involuntary servitude; or

(B) inducing or causing the child to:

(i) engage in prostitution or juvenile prostitution; or

(ii) engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) or IC 35-42-4-4(c) (child exploitation); or

(2) sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor, a Level 3 felony. Except as provided in subsection (e), it is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or juvenile prostitution or to participate in sexual conduct.

(c) A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution, juvenile prostitution, or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor, a Level 2 felony.

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(d) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

- (1) forced labor;
- (2) involuntary servitude; or
- (3) prostitution or juvenile prostitution;

commits human trafficking, a Level 5 felony.

(e) It is a defense to a prosecution under subsection (b)(2) if:

(1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or

(2) all the following apply:

(A) The person is not more than four (4) years older than the victim.

(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(C) The crime:

(i) was not committed by a person who is at least twenty-one (21) years of age;

(ii) was not committed by using or threatening the use of deadly force;

(iii) was not committed while armed with a deadly weapon;

(iv) did not result in serious bodily injury;

(v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(vi) was not committed by a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.