

HOUSE BILL No. 1272

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2-78; IC 35-33; IC 35-42-2-1.3; IC 35-46-1-15.1.

Synopsis: Laura's law. To honor the memory of Laura Russell, provides that if a court denies a request for an arrest warrant involving a crime of domestic violence, a prosecuting attorney may petition a court to hold an ex parte hearing to present additional evidence to establish probable cause. Requires a court to hold the ex parte hearing within 24 hours after the petition is filed. Provides that if a court denies a request for an arrest warrant after the ex parte hearing and issues a summons for the defendant, certain notice of the summons to the victim is required. Requires that the service of summons on a defendant concerning an alleged crime of domestic violence must be served by a law enforcement officer. Requires a bail hearing if a person is charged with a crime of domestic violence. Enhances the penalty for invasion of privacy to a Level 6 felony if a person violates a no contact order that was issued as a condition of probation or a bond. Enhances the penalty for domestic battery to a Level 6 felony if a person has a previous conviction of domestic battery. Provides that bail must be revoked for a defendant charged with a crime of domestic violence who violates a no contact order while on bail and who is subsequently charged with invasion of privacy or a subsequent crime of domestic violence.

Effective: July 1, 2018.

Goodin

January 11, 2018, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1272

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:

1 SECTION 1. IC 35-31.5-2-78, AS AMENDED BY P.L.181-2014,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 78. "Crime of domestic violence", for purposes of
4 IC 5-2-6.1, **IC 35-33**, IC 35-38-9, and IC 35-47-4-7, means an offense
5 or the attempt to commit an offense that:
6 (1) has as an element the:
7 (A) use of physical force; or
8 (B) threatened use of a deadly weapon; and
9 (2) is committed against a:
10 (A) current or former spouse, parent, or guardian of the
11 defendant;
12 (B) person with whom the defendant shared a child in
13 common;
14 (C) person who was cohabiting with or had cohabited with the
15 defendant as a spouse, parent, or guardian; or
16 (D) person who was or had been similarly situated to a spouse,
17 parent, or guardian of the defendant.



1 SECTION 2. IC 35-33-2-2.5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2018]: **Sec. 2.5. (a) If a court denies a request for a warrant
 4 involving an alleged crime of domestic violence, the prosecuting
 5 attorney may petition the court to hold an ex parte hearing to allow
 6 the prosecuting attorney to present additional information to
 7 establish probable cause for an arrest warrant.**

8 **(b) The court shall set an ex parte hearing within twenty-four
 9 (24) hours after a prosecuting attorney files a petition under
 10 subsection (a).**

11 **(c) If a court denies an arrest warrant after holding an ex parte
 12 hearing under this section and issues a summons for the defendant
 13 to appear before the court, the court shall:**

14 **(1) notify the victim before the summons is served on the
 15 defendant; or**

16 **(2) notify the prosecuting attorney at least twenty-four (24)
 17 hours before the summons is served on the defendant to allow
 18 the prosecuting attorney to notify the victim.**

19 **(d) If a court issues a summons for a defendant involving an
 20 alleged crime of domestic violence, only a law enforcement officer
 21 may serve the summons. Informal service of the summons on
 22 defense counsel is prohibited.**

23 SECTION 3. IC 35-33-8-3.5, AS AMENDED BY P.L.187-2017,
 24 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2018]: **Sec. 3.5. (a) This section applies only to a:**

26 **(1) sexually violent predator defendant; and**

27 **(2) person charged with a crime of domestic violence (as
 28 defined in IC 35-31.5-2-78).**

29 **(b) As used in this section, "sexually violent predator defendant"
 30 means a person who:**

31 **(1) is a sexually violent predator under IC 35-38-1-7.5; and**

32 **(2) is arrested for or charged with the commission of an offense
 33 that would classify the person as a sex or violent offender (as
 34 defined in IC 11-8-8-5).**

35 **(c) A court may not admit a:**

36 **(1) sexually violent predator defendant;**

37 **(2) person charged with child molesting (IC 35-42-4-3); or**

38 **(3) person charged with child solicitation (IC 35-42-4-6); or**

39 **(4) person charged with a crime of domestic violence (as
 40 defined in IC 35-31.5-2-78);**

41 to bail until the court has conducted a bail hearing in open court.
 42 Except as provided in section 6 of this chapter, the court shall conduct



1 a bail hearing not later than forty-eight (48) hours after the person has
 2 been arrested, unless exigent circumstances prevent holding the
 3 hearing within forty-eight (48) hours.

4 (d) At the conclusion of the hearing described in subsection (c) and
 5 after consideration of the bail guidelines described in section 3.8 of this
 6 chapter, the court shall consider whether the factors described in
 7 section 4 of this chapter warrant the imposition of a bail amount that
 8 exceeds court or county guidelines, if applicable.

9 SECTION 4. IC 35-33-8-3.7 IS ADDED TO THE INDIANA CODE
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2018]: **Sec. 3.7. (a) This section applies only to a defendant who
 12 is charged with a crime of domestic violence, as defined in
 13 IC 35-31.5-2-78.**

14 **(b) Except as provided in subsection (c), if a defendant described
 15 in subsection (a) violates any no contact order while on bail and
 16 subsequently is charged with:**

- 17 **(1) invasion of privacy, as described in IC 35-46-1-15.1; or**
 18 **(2) a subsequent crime of domestic violence, as defined in**
 19 **IC 35-31.5-2-78;**

20 **the court shall revoke the defendant's bail and hold the defendant**
 21 **in jail.**

22 **(c) After a hearing, a court may admit a defendant described in**
 23 **subsection (b) to bail if the defendant wears a GPS tracking device**
 24 **as a condition of bail.**

25 **(d) A court may order a person who is required to wear a GPS**
 26 **tracking device under subsection (c) to pay any costs associated**
 27 **with the GPS tracking device.**

28 SECTION 5. IC 35-42-2-1.3, AS AMENDED BY P.L.65-2016,
 29 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2018]: **Sec. 1.3. (a) Except as provided in subsections (b)**
 31 **through (f), a person who knowingly or intentionally:**

- 32 **(1) touches a family or household member in a rude, insolent, or**
 33 **angry manner; or**
 34 **(2) in a rude, insolent, or angry manner places any bodily fluid or**
 35 **waste on a family or household member;**

36 **commits domestic battery, a Class A misdemeanor.**

37 **(b) The offense under subsection (a)(1) or (a)(2) is a Level 6 felony**
 38 **if one (1) or more of the following apply:**

- 39 **(1) The person who committed the offense has a previous,**
 40 **unrelated conviction:**

- 41 **(A) for a battery offense included in this chapter; or**
 42 **(B) for a domestic battery offense under this section; or**



- 1 ~~(B)~~ (C) in any other jurisdiction, including a military court, in
 2 which the elements of the crime for which the conviction was
 3 entered are substantially similar to the elements of a battery
 4 offense included in this chapter.
- 5 (2) The person who committed the offense is at least eighteen (18)
 6 years of age and committed the offense against a family or
 7 household member in the physical presence of a child less than
 8 sixteen (16) years of age, knowing that the child was present and
 9 might be able to see or hear the offense.
- 10 (3) The offense results in moderate bodily injury to a family or
 11 household member.
- 12 (4) The offense is committed against a family or household
 13 member who is less than fourteen (14) years of age and is
 14 committed by a person at least eighteen (18) years of age.
- 15 (5) The offense is committed against a family or household
 16 member of any age who has a mental or physical disability and is
 17 committed by a person having the care of the family or household
 18 member with the mental or physical disability, whether the care
 19 is assumed voluntarily or because of a legal obligation.
- 20 (6) The offense is committed against a family or household
 21 member who is an endangered adult (as defined in IC 12-10-3-2).
- 22 (c) The offense described in subsection (a)(1) or (a)(2) is a Level 5
 23 felony if one (1) or more of the following apply:
- 24 (1) The offense results in serious bodily injury to a family or
 25 household member.
- 26 (2) The offense is committed with a deadly weapon against a
 27 family or household member.
- 28 (3) The offense results in bodily injury to a pregnant family or
 29 household member if the person knew of the pregnancy.
- 30 (4) The person has a previous conviction for a battery offense:
- 31 (A) included in this chapter against the same family or
 32 household member; or
- 33 (B) against the same family or household member in any other
 34 jurisdiction, including a military court, in which the elements
 35 of the crime for which the conviction was entered are
 36 substantially similar to the elements of a battery offense
 37 included in this chapter.
- 38 (5) The offense results in bodily injury to one (1) or more of the
 39 following:
- 40 (A) A family or household member who is less than fourteen
 41 (14) years of age if the offense is committed by a person at
 42 least eighteen (18) years of age.



- 1 (B) A family or household member who has a mental or
 2 physical disability if the offense is committed by an individual
 3 having care of the family or household member with the
 4 disability, regardless of whether the care is assumed
 5 voluntarily or because of a legal obligation.
- 6 (C) A family or household member who is an endangered
 7 adult (as defined in IC 12-10-3-2).
- 8 (d) The offense described in subsection (a)(1) or (a)(2) is a Level 4
 9 felony if it results in serious bodily injury to a family or household
 10 member who is an endangered adult (as defined in IC 12-10-3-2).
- 11 (e) The offense described in subsection (a)(1) or (a)(2) is a Level 3
 12 felony if it results in serious bodily injury to a family or household
 13 member who is less than fourteen (14) years of age if the offense is
 14 committed by a person at least eighteen (18) years of age.
- 15 (f) The offense described in subsection (a)(1) or (a)(2) is a Level 2
 16 felony if it results in the death of one (1) or more of the following:
- 17 (1) A family or household member who is less than fourteen (14)
 18 years of age if the offense is committed by a person at least
 19 eighteen (18) years of age.
- 20 (2) A family or household member who is an endangered adult (as
 21 defined in IC 12-10-3-2).
- 22 SECTION 6. IC 35-46-1-15.1, AS AMENDED BY P.L.107-2017,
 23 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2018]: Sec. 15.1. (a) **Except as provided in subsection (b),**
 25 a person who knowingly or intentionally violates:
- 26 (1) a protective order to prevent domestic or family violence
 27 issued under IC 34-26-5 (or, if the order involved a family or
 28 household member, under IC 34-26-2 or IC 34-4-5.1-5 before
 29 their repeal);
- 30 (2) an ex parte protective order issued under IC 34-26-5 (or, if the
 31 order involved a family or household member, an emergency
 32 order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
- 33 (3) a workplace violence restraining order issued under
 34 IC 34-26-6;
- 35 (4) a no contact order in a dispositional decree issued under
 36 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4
 37 or IC 31-6-4-15.9 before their repeal) or an order issued under
 38 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the
 39 person to refrain from direct or indirect contact with a child in
 40 need of services or a delinquent child;
- 41 (5) a no contact order issued as a condition of pretrial release,
 42 including release on bail or personal recognizance, or pretrial



1 diversion, and including a no contact order issued under
2 IC 35-33-8-3.6;

3 (6) a no contact order issued as a condition of probation;

4 (7) a protective order to prevent domestic or family violence
5 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before
6 their repeal);

7 (8) a protective order to prevent domestic or family violence
8 issued under IC 31-14-16-1 in a paternity action;

9 (9) an order issued in another state that is substantially similar to
10 an order described in subdivisions (1) through (8);

11 (10) an order that is substantially similar to an order described in
12 subdivisions (1) through (8) and is issued by an Indian:

13 (A) tribe;

14 (B) band;

15 (C) pueblo;

16 (D) nation; or

17 (E) organized group or community, including an Alaska
18 Native village or regional or village corporation as defined in
19 or established under the Alaska Native Claims Settlement Act
20 (43 U.S.C. 1601 et seq.);

21 that is recognized as eligible for the special programs and services
22 provided by the United States to Indians because of their special
23 status as Indians;

24 (11) an order issued under IC 35-33-8-3.2; or

25 (12) an order issued under IC 35-38-1-30;

26 commits invasion of privacy, a Class A misdemeanor.

27 ~~(b)~~ **However**, The offense **described in subsection (a)** is a Level 6
28 felony if the person:

29 **(1)** has a prior unrelated conviction for an offense under this
30 section; **or**

31 **(2) violated a no contact order described in subsection (a) that**
32 **was issued as a condition of bond or probation.**

33 ~~(b)~~ **(c)** It is not a defense to a prosecution under this section that the
34 accused person used or operated an unmanned aerial vehicle in
35 committing the violation.

