



February 15, 2019

SENATE BILL No. 304

DIGEST OF SB 304 (Updated February 12, 2019 1:06 pm - DI 106)

Citations Affected: IC 35-45.

Synopsis: Intimidation. Provides that a person who communicates a threat: (1) with the intent of causing a person to engage in conduct against the person's will; (2) as retaliation for a prior lawful act; or (3) and places another person in the fear that certain threats will be carried out; commits intimidation, a Class A misdemeanor. Provides that the offense is a Level 6 felony if the threat is based on the person's occupation or relates to an act taken within the scope of the person's occupation, and increases the penalty to a Level 5 felony if the threat is to commit terrorism or is made in furtherance of an act of terrorism.

Effective: July 1, 2019.

**Koch, Crider, Freeman, Glick,
Sandlin, Randolph Lonnie M**

January 7, 2019, read first time and referred to Committee on Corrections and Criminal Law.
February 14, 2019, amended, reported favorably — Do Pass.

SB 304—LS 6745/DI 101



February 15, 2019

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.

SENATE BILL No. 304

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 35-45-2-1, AS AMENDED BY P.L.85-2017,
2 SECTION 114, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A person who communicates
4 a threat to ~~another person~~, with the intent:
5 (1) that ~~the other another~~ person engage in conduct against the
6 other person's will;
7 (2) that ~~the other another~~ person be placed in fear of retaliation
8 for a prior lawful act; ~~or~~
9 (3) of:
10 (A) causing:
11 (i) a dwelling, a building, or other structure; or
12 (ii) a vehicle;
13 to be evacuated; or
14 (B) interfering with the occupancy of:
15 (i) a dwelling, building, or other structure; or
16 (ii) a vehicle; ~~or~~
17 **(4) that another person be placed in fear that the threat will**

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1 **be carried out, if the threat is a threat described in:**

2 **(A) subsection (d)(1) through (d)(5); or**

3 **(B) subsection (d)(7) through (d)(8);**

4 commits intimidation, a Class A misdemeanor.

5 (b) However, the offense is a:

6 (1) Level 6 felony if:

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

8 (B) the **subject of the threat or the** person to whom the threat
9 is communicated

10 (i) is a **law enforcement officer;**

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

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

15 (iv) is a **community policing volunteer;**

16 (v) is an **employee of a court;**

17 (vi) is an **employee of a probation department;**

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

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

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

23 and, except as provided in item (ii);

24 (C) the threat is communicated ~~to the person~~ because of the
25 occupation, profession, employment status, or ownership
26 status of ~~the a~~ person as described in items (i) through (ix) or
27 based on an act taken by the person within the scope of ~~or the~~
28 **threat relates to or is made in connection with** the
29 occupation, profession, employment status, or ownership
30 status of ~~the a~~ person;

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

33 ~~(E)~~ (E) the threat is communicated using property, including
34 electronic equipment or systems, of a school corporation or
35 other governmental entity; and

36 (2) Level 5 felony if:

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

39 (B) the **subject of the threat or the** person to whom the threat
40 is communicated:

41 (i) is a **judge judicial officer** or bailiff of any court; or

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



- 1 attorney;
- 2 **and the threat relates to the person's status as a judicial**
- 3 **officer, bailiff, prosecuting attorney, or deputy prosecuting**
- 4 **attorney, or is made in connection with the official duties**
- 5 **of the judicial officer, bailiff, prosecuting attorney, or**
- 6 **deputy prosecuting attorney; or**
- 7 **(C) the threat is:**
- 8 **(i) to commit terrorism; or**
- 9 **(ii) made in furtherance of an act of terrorism.**
- 10 (c) "Communicates" includes posting a message electronically,
- 11 including on a social networking web site (as defined in
- 12 IC 35-31.5-2-307).
- 13 (d) "Threat" means an expression, by words or action, of an
- 14 intention to:
- 15 (1) unlawfully injure the person threatened or another person, or
- 16 damage property;
- 17 (2) unlawfully subject a person to physical confinement or
- 18 restraint;
- 19 (3) commit a crime;
- 20 (4) unlawfully withhold official action, or cause such withholding;
- 21 (5) unlawfully withhold testimony or information with respect to
- 22 another person's legal claim or defense, except for a reasonable
- 23 claim for witness fees or expenses;
- 24 (6) expose the person threatened to hatred, contempt, disgrace, or
- 25 ridicule;
- 26 (7) falsely harm the credit or business reputation of the person
- 27 threatened; or
- 28 (8) cause the evacuation of a dwelling, a building, another
- 29 structure, or a vehicle. **For purposes of this subdivision, the**
- 30 **term includes an expression that would cause a reasonable**
- 31 **person to consider the evacuation of a dwelling, a building,**
- 32 **another structure, or a vehicle, even if the dwelling, building,**
- 33 **structure, or vehicle is not evacuated.**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 304, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 3.

Page 2, line 7, strike "to another person,".

Page 2, line 8, strike "the other" and insert "**another**".

Page 2, line 10, strike "the other" and insert "**another**".

Page 2, line 11, strike "or".

Page 2, line 16, reset in roman "or".

Page 2, delete lines 20 through 22, begin a new line block indented, and insert:

"(4) that another person be placed in fear that the threat will be carried out, if the threat is a threat described in:

(A) subsection (d)(1) through (d)(5); or

(B) subsection (d)(7) through (d)(8);"

Page 2, line 27, after "(B) the" insert "**subject of the threat or the**".

Page 2, line 27, delete "communicated:" and insert "communicated".

Page 2, strike line 28.

Page 2, line 29, strike "(ii)".

Page 2, strike lines 32 through 37.

Page 2, line 38, strike "organization;".

Page 2, delete lines 39 through 42.

Page 3, delete line 1.

Page 3, line 2, delete "(x)".

Page 3, line 2, strike "is a person that owns a building or structure that is".

Page 3, strike line 3.

Page 3, line 4, strike "and, except as provided in item (ii),".

Page 3, line 4, after "(ii)," begin a new line double block indented and insert:

"(C)".

Page 3, line 5, strike "to the person".

Page 3, line 6, strike "the" and insert "**a**".

Page 3, line 7, strike "as described in items (i) through".

Page 3, line 7, delete "(x)".

Page 3, line 7, strike "or based on an".

Page 3, line 8, strike "act taken by the person within the scope of"



and insert **"or the threat relates to or is made in connection with"**.

Page 3, line 9, strike "the" and insert "a".

Page 3, line 11, strike "(C)" and insert "**(D)**".

Page 3, line 13, strike "(D)" and insert "**(E)**".

Page 3, line 18, strike "or".

Page 3, line 19, after "(B) the" insert **"subject of the threat or the"**.

Page 3, line 20, strike "judge" and insert **"judicial officer"**.

Page 3, line 22, delete "attorney." and insert "attorney;

and the threat relates to the person's status as a judicial officer, bailiff, prosecuting attorney, or deputy prosecuting attorney, or is made in connection with the official duties of the judicial officer, bailiff, prosecuting attorney, or deputy prosecuting attorney; or

(C) the threat is:

(i) to commit terrorism; or

(ii) made in furtherance of an act of terrorism."

Page 3, line 42, after "vehicle." insert **"For purposes of this subdivision, the term includes an expression that would cause a reasonable person to consider the evacuation of a dwelling, a building, another structure, or a vehicle, even if the dwelling, building, structure, or vehicle is not evacuated."**

Delete page 4.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 304 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 8, Nays 0.

