



Reprinted  
February 19, 2019

---

---

## SENATE BILL No. 486

---

DIGEST OF SB 486 (Updated February 18, 2019 3:04 pm - DI 106)

**Citations Affected:** IC 9-30; IC 35-38; IC 35-42; IC 35-44.1; IC 35-45; IC 35-46; IC 35-47; IC 35-50.

**Synopsis:** Criminal law issues. Specifies, for purposes of operating while intoxicated, the manner in which a chemical test for THC must be conducted. Requires the state department of toxicology to adopt rules relating to the administration of a chemical test for THC. Permits a prosecuting attorney to file for revocation of a community corrections placement. Removes a provision making the violation of a home detention order the crime of escape. Makes maintaining a common nuisance a Class A misdemeanor unless: (1) the person has a prior conviction; or (2) the common nuisance is used for human trafficking, or for cocaine, methamphetamine, or a schedule I or II narcotic drug. Removes a provision making receipt of a report a prerequisite for imposing of a two year probationary period on a misdemeanant convicted of a crime relating to substance abuse. Allows certain individuals who commit an offense in a penal facility to be sentenced to the department of correction. Provides that the exception allowing a person to possess a firearm on school property does not apply if the person commits an offense on school property. Increases the penalty for domestic battery if the defendant has a prior conviction for strangulation, and increases the penalty for strangulation if the person has a prior strangulation conviction.

**Effective:** July 1, 2019.

---

---

### Young M, Ford Jon

---

---

January 14, 2019, read first time and referred to Committee on Corrections and Criminal Law.

February 14, 2019, amended, reported favorably — Do Pass.

February 18, 2019, read second time, amended, ordered engrossed.

---

---

SB 486—LS 7104/DI 106





Reprinted  
February 19, 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. 486

---

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 9-30-5-0.3 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2019]: **Sec. 0.3. For purposes of sections 1, 4, and 5 of this**  
4 **chapter, the presence of delta-9-tetrahydrocannabinol (THC) in a**  
5 **person's blood may be established only by use of a chemical test**  
6 **which specifically tests for the presence of delta-**  
7 **9-tetrahydrocannabinol (THC) in the person's blood. The**  
8 **confirmatory test may be preceded by an initial screening chemical**  
9 **test.**

10           SECTION 2. IC 9-30-6-5, AS AMENDED BY P.L.38-2017,  
11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2019]: Sec. 5. (a) The director of the state department of  
13 toxicology shall adopt rules under IC 4-22-2 concerning the following:

- 14                   (1) Standards and regulations for the:  
15                         (A) selection;  
16                         (B) training; and  
17                         (C) certification;

SB 486—LS 7104/DI 106



- 1 of breath test operators.
- 2 (2) Standards and regulations for the:
- 3 (A) selection; and
- 4 (B) certification;
- 5 of breath test equipment and chemicals.
- 6 (3) The certification of the proper technique for administering a
- 7 breath test.
- 8 **(4) Standards and regulations for the administration of a**
- 9 **chemical test described in IC 9-30-5-0.3 to determine the**
- 10 **presence of delta-9-tetrahydrocannabinol (THC) in a person's**
- 11 **blood.**
- 12 (b) A certification in accordance with rules adopted under
- 13 subsection (a) shall be:
- 14 (1) sent in writing to the clerk of the circuit court in each county
- 15 where the breath test operator, equipment, or chemicals are used
- 16 to administer breath tests; or
- 17 (2) published on the Internet web site of the **state** department of
- 18 toxicology.
- 19 However, failure to send or publish a certification as required by this
- 20 subsection does not invalidate any test.
- 21 (c) A certification in accordance with rules adopted under
- 22 subsection (a) that is sent in writing under subsection (b)(1) or
- 23 published on the Internet web site of the **state** department of
- 24 **toxicology** under subsection (b)(2) and obtained from the **state**
- 25 department of **toxicology** as an electronic record bearing an electronic
- 26 signature:
- 27 (1) is admissible in a proceeding under this chapter, IC 9-30-5,
- 28 IC 9-30-9, or IC 9-30-15;
- 29 (2) constitutes prima facie evidence that the equipment or
- 30 chemical:
- 31 (A) was inspected and approved by the state department of
- 32 toxicology on the date specified on the writing or electronic
- 33 record; and
- 34 (B) was in proper working condition on the date the breath test
- 35 was administered if the date of approval is not more than one
- 36 hundred eighty (180) days before the date of the breath test;
- 37 (3) constitutes prima facie evidence of the approved technique for
- 38 administering a breath test; and
- 39 (4) constitutes prima facie evidence that the breath test operator
- 40 was certified by the state department of toxicology on the date
- 41 specified on the writing or electronic record.
- 42 (d) Results of chemical tests that involve an analysis of a person's



1 breath are not admissible in a proceeding under this chapter, IC 9-30-5,  
2 IC 9-30-9, or IC 9-30-15 if:

- 3 (1) the test operator;
- 4 (2) the test equipment;
- 5 (3) the chemicals used in the test, if any; or
- 6 (4) the techniques used in the test;

7 have not been approved in accordance with the rules adopted under  
8 subsection (a).

9 **(e) Results of a chemical test described in IC 9-30-5-0.3 are**  
10 **admissible in a proceeding under IC 9-30-5 if the test is conducted**  
11 **in compliance with rules adopted under this section.**

12 SECTION 3. IC 35-38-2.6-5, AS AMENDED BY P.L.179-2015,  
13 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2019]: Sec. 5. (a) If a person who is placed under this chapter  
15 violates the terms of the placement, the community corrections director  
16 may do any of the following:

- 17 (1) Change the terms of the placement.
- 18 (2) Continue the placement.
- 19 (3) Reassign a person assigned to a specific community  
20 corrections program to a different community corrections  
21 program.
- 22 (4) Request that the court revoke the placement and commit the  
23 person to the county jail or department of correction for the  
24 remainder of the person's sentence.

25 The community corrections director shall notify the court if the director  
26 changes the terms of the placement, continues the placement, or  
27 reassigns the person to a different program.

28 **(b) If a person who is placed under this chapter violates the**  
29 **terms of the placement, the prosecuting attorney may request that**  
30 **the court revoke the placement and commit the person to the**  
31 **county jail or department of correction for the remainder of the**  
32 **person's sentence.**

33 SECTION 4. IC 35-38-3-3, AS AMENDED BY P.L.184-2018,  
34 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2019]: Sec. 3. (a) Except as provided by subsection (b), a  
36 person convicted of a misdemeanor may not be committed to the  
37 department of correction.

38 (b) Upon a request from the sheriff, the commissioner may agree to  
39 accept custody of a misdemeanor:

- 40 (1) if placement in the county jail:
  - 41 (A) places the inmate in danger of serious bodily injury or
  - 42 death; or



- 1 (B) represents a substantial threat to the safety of others;  
 2 (2) for other good cause shown; or  
 3 (3) if a person has more than five hundred forty-seven (547) days  
 4 remaining before the person's earliest release date as a result of:  
 5 (A) consecutive misdemeanor sentences; or  
 6 (B) a sentencing enhancement applied to a misdemeanor  
 7 sentence.

8 (c) After June 30, 2014, and before January 1, 2016, a court may not  
 9 commit a person convicted of a Level 6 felony to the department of  
 10 correction if the person's earliest possible release date is less than  
 11 ninety-one (91) days from the date of sentencing, unless the  
 12 commitment is due to the person violating a condition of probation,  
 13 parole, or community corrections by committing a new criminal  
 14 offense.

15 (d) After December 31, 2015, a court may not commit a person  
 16 convicted of a Level 6 felony to the department of correction unless:

- 17 (1) the commitment is due to the revocation of the person's  
 18 sentence for violating probation, parole, or community corrections  
 19 and the revocation of the person's sentence is due to a new  
 20 criminal offense; ~~or~~  
 21 **(2) the person is convicted of a Level 6 felony that was**  
 22 **committed in a penal facility; or**  
 23 ~~(2)~~ **(3) the person:**

- 24 (A) is convicted of a Level 6 felony and the sentence for that  
 25 felony is ordered to be served consecutively to the sentence for  
 26 another felony;  
 27 (B) is convicted of a Level 6 felony that is enhanced by an  
 28 additional fixed term under IC 35-50-2-8 through  
 29 IC 35-50-2-16; or  
 30 (C) has received an enhanced sentence under IC 9-30-15.5-2;  
 31 and the person's earliest possible release date is more than three  
 32 hundred sixty-five (365) days after the date of sentencing.

33 A person who may not be committed to the department of correction  
 34 may be placed on probation, committed to the county jail, or placed in  
 35 community corrections for assignment to an appropriate community  
 36 corrections program.

37 (e) Subject to appropriation from the general assembly, a sheriff is  
 38 entitled to a per diem and medical expense reimbursement from the  
 39 department of correction for the cost of incarcerating a person  
 40 described in subsections (c) and (d) in a county jail. The sheriff is  
 41 entitled to a per diem and medical expense reimbursement only for the  
 42 time that the person described in subsections (c) and (d) is incarcerated



- 1 in the county jail.
- 2 (f) Per diem and medical expense reimbursements received by a
- 3 county under this section or received by a county from the state under
- 4 any other law for the purpose of reimbursing sheriffs for the cost of
- 5 incarcerating in county jails persons convicted of felonies:
- 6 (1) shall be deposited in the county general fund; and
- 7 (2) upon appropriation by the county fiscal body, shall be used by
- 8 the county sheriff only for the purposes of paying the costs of
- 9 incarcerating in the county jail persons described in subsections
- 10 (c) and (d) or other persons convicted of felonies.
- 11 (g) The county auditor shall semiannually provide to the county
- 12 fiscal body and the county sheriff an itemized record of the per diem
- 13 and medical expense reimbursements received by the county under this
- 14 section or under any other law for the purpose of reimbursing sheriffs
- 15 for the cost of incarcerating persons convicted of felonies.
- 16 SECTION 5. IC 35-42-2-1.3, AS AMENDED BY P.L.65-2016,
- 17 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2019]: Sec. 1.3. (a) Except as provided in subsections (b)
- 19 through (f), a person who knowingly or intentionally:
- 20 (1) touches a family or household member in a rude, insolent, or
- 21 angry manner; or
- 22 (2) in a rude, insolent, or angry manner places any bodily fluid or
- 23 waste on a family or household member;
- 24 commits domestic battery, a Class A misdemeanor.
- 25 (b) The offense under subsection (a)(1) or (a)(2) is a Level 6 felony
- 26 if one (1) or more of the following apply:
- 27 (1) The person who committed the offense has a previous,
- 28 unrelated conviction:
- 29 (A) for a battery offense included in this chapter; ~~or~~
- 30 **(B) for a strangulation offense under IC 35-42-2-9; or**
- 31 ~~(B)~~ **(C)** in any other jurisdiction, including a military court, in
- 32 which the elements of the crime for which the conviction was
- 33 entered are substantially similar to the elements of:
- 34 **(i)** a battery offense included in this chapter; **or**
- 35 **(ii) a strangulation offense under IC 35-42-2-9.**
- 36 (2) The person who committed the offense is at least eighteen (18)
- 37 years of age and committed the offense against a family or
- 38 household member in the physical presence of a child less than
- 39 sixteen (16) years of age, knowing that the child was present and
- 40 might be able to see or hear the offense.
- 41 (3) The offense results in moderate bodily injury to a family or
- 42 household member.



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





1 felony if it results in serious bodily injury to a family or household  
 2 member who is less than fourteen (14) years of age if the offense is  
 3 committed by a person at least eighteen (18) years of age.

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

6 (1) A family or household member who is less than fourteen (14)  
 7 years of age if the offense is committed by a person at least  
 8 eighteen (18) years of age.

9 (2) A family or household member who is an endangered adult (as  
 10 defined in IC 12-10-3-2).

11 SECTION 6. IC 35-42-2-9, AS AMENDED BY P.L.252-2017,  
 12 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2019]: Sec. 9. (a) This section does not apply to a medical  
 14 procedure.

15 (b) As used in this section, "torso" means any part of the upper body  
 16 from the collarbone to the hips.

17 (c) A person who, in a rude, angry, or insolent manner, knowingly  
 18 or intentionally:

19 (1) applies pressure to the throat or neck of another person;

20 (2) obstructs the nose or mouth of the another person; or

21 (3) applies pressure to the torso of another person;

22 in a manner that impedes the normal breathing or the blood circulation  
 23 of the other person commits strangulation, a Level 6 felony.

24 (d) However, the offense under subsection (c) is a Level 5 felony if:

25 (1) the offense is committed **by a person:**

26 (A) against a pregnant woman; and

27 (2) ~~(B) the person who committed the offense~~ **(B) the person** knew the victim  
 28 was pregnant at the time of the offense;

29 **(2) the person has a prior unrelated conviction under this**  
 30 **section; or**

31 **(3) the person has a prior unrelated conviction in any**  
 32 **jurisdiction, including a military court, in which the elements**  
 33 **of the crime for which the conviction was entered are**  
 34 **substantially similar to the elements set forth in this section.**

35 SECTION 7. IC 35-44.1-3-4, AS AMENDED BY P.L.158-2013,  
 36 SECTION 511, IS AMENDED TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) A person, except as provided  
 38 in subsection (b), who intentionally flees from lawful detention  
 39 commits escape, a Level 5 felony. However, the offense is a Level 4  
 40 felony if, while committing it, the person draws or uses a deadly  
 41 weapon or inflicts bodily injury on another person.

42 (b) A person who knowingly or intentionally ~~violates a home~~



1 ~~detention order or intentionally~~ removes an electronic monitoring  
2 device or GPS tracking device commits escape, a Level 6 felony.

3 (c) A person who knowingly or intentionally fails to return to lawful  
4 detention following temporary leave granted for a specified purpose or  
5 limited period commits failure to return to lawful detention, a Level 6  
6 felony. However, the offense is a Level 5 felony if, while committing  
7 it, the person draws or uses a deadly weapon or inflicts bodily injury on  
8 another person.

9 SECTION 8. IC 35-45-1-5, AS AMENDED BY P.L.144-2018,  
10 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2019]: Sec. 5.(a) As used in this section, "common nuisance"  
12 means a building, structure, vehicle, or other place that is used for (1)  
13 or more of the following purposes:

14 (1) To buy an alcoholic beverage in violation of IC 7.1-5-10-5.

15 (2) To unlawfully use, keep, or sell a legend drug.

16 (3) To unlawfully:

17 (A) use;

18 (B) manufacture;

19 (C) keep;

20 (D) offer for sale;

21 (E) sell;

22 (F) deliver; or

23 (G) finance the delivery of;

24 a controlled substance or an item of drug paraphernalia (as  
25 described in IC 35-48-4-8.5).

26 (4) To provide a location for a person to pay, offer to pay, or agree  
27 to pay money or other property to another person for a human  
28 trafficking victim or an act performed by a human trafficking  
29 victim.

30 (5) To provide a location for a person to commit a violation of  
31 IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human trafficking).

32 (b) A person who knowingly or intentionally visits a common  
33 nuisance described in subsections (a)(1) through (a)(4) commits  
34 visiting a common nuisance. The offense is a:

35 (1) Class B misdemeanor if the common nuisance is used for the  
36 unlawful:

37 (A) sale of an alcoholic beverage as set forth in subsection

38 (a)(1);

39 (B) use, keeping, or sale of a legend drug as set forth in  
40 subsection (a)(2); or

41 (C) use, manufacture, keeping, offer for sale, sale, delivery, or  
42 financing the delivery of a controlled substance or item of drug



- 1 paraphernalia (as described in IC 35-48-4-8.5), as set forth in  
 2 subsection (a)(3);  
 3 (2) Class A misdemeanor if:  
 4 (A) the common nuisance is used as a location for a person to  
 5 pay, offer to pay, or agree to pay for a human trafficking victim  
 6 or an act performed by a human trafficking victim as set forth  
 7 in subsection (a)(4); or  
 8 (B) the person knowingly, intentionally, or recklessly takes a  
 9 person less than eighteen (18) years of age or an endangered  
 10 adult (as defined in IC 12-10-3-2) into a common nuisance  
 11 used to unlawfully:  
 12 (i) use;  
 13 (ii) manufacture;  
 14 (iii) keep;  
 15 (iv) offer for sale;  
 16 (v) sell;  
 17 (vi) deliver; or  
 18 (vii) finance the delivery of;  
 19 a controlled substance or an item of drug paraphernalia, as set  
 20 forth in subsection (a)(3); and  
 21 (3) Level 6 felony if the person:  
 22 (A) knowingly, intentionally, or recklessly takes a person less  
 23 than eighteen (18) years of age or an endangered adult (as  
 24 defined in IC 12-10-3-2) into a common nuisance used to  
 25 unlawfully:  
 26 (i) use;  
 27 (ii) manufacture;  
 28 (iii) keep;  
 29 (iv) offer for sale;  
 30 (v) sell;  
 31 (vi) deliver; or  
 32 (vii) finance the delivery of;  
 33 a controlled substance or an item of drug paraphernalia, as set  
 34 forth in subsection (a)(3); and  
 35 (B) has a prior unrelated conviction for a violation of this  
 36 section involving a controlled substance or drug paraphernalia.  
 37 (c) A person who knowingly or intentionally maintains a common  
 38 nuisance commits maintaining a common nuisance, a ~~Level 6 felony~~.  
 39 **Class A misdemeanor. However, the offense is a Level 6 felony if:**  
 40 **(1) the common nuisance is used to unlawfully:**  
 41 **(A) use;**  
 42 **(B) manufacture;**



- 1 (C) keep;
- 2 (D) offer for sale;
- 3 (E) sell;
- 4 (F) deliver; or
- 5 (G) finance the delivery of;
- 6 cocaine, methamphetamine, or a narcotic drug classified in
- 7 schedule I or II;
- 8 (2) the common nuisance is used as a location for a person to
- 9 pay, offer to pay, or agree to pay for a human trafficking
- 10 victim or an act performed by a human trafficking victim as
- 11 set forth in subsection (a)(4); or
- 12 (3) the person has a prior unrelated conviction under this
- 13 subsection.
- 14 (d) It is a defense to a prosecution under subsection (c) that:
- 15 (1) the offense involves only the unlawful use or keeping of:
- 16 (A) less than:
- 17 (i) thirty (30) grams of marijuana; or
- 18 (ii) five (5) grams of hash oil, hashish, or salvia; or
- 19 (B) an item of drug paraphernalia (as described in
- 20 IC 35-48-4-8.5) that is designed for use with, or intended to be
- 21 used for, marijuana, hash oil, hashish, or salvia; and
- 22 (2) the person does not have a prior unrelated conviction for a
- 23 violation of subsection (c).
- 24 SECTION 9. IC 35-46-9-12, AS ADDED BY P.L.40-2012,
- 25 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2019]: Sec. 12. (a) The provisions of IC 9-30-6-5 concerning
- 27 the certification and use of chemical breath tests apply to the use of
- 28 chemical breath tests in a prosecution under this chapter.
- 29 (b) IC 9-30-6-6 applies and IC 9-30-5-0.3 apply to chemical tests
- 30 performed under this chapter, and the presence of
- 31 delta-9-tetrahydrocannabinol (THC) in a person's blood may be
- 32 determined only in accordance with IC 9-30-5-0.3.
- 33 SECTION 10. IC 35-47-9-1, AS AMENDED BY P.L.157-2014,
- 34 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 35 JULY 1, 2019]: Sec. 1. (a) This chapter does not apply to the following:
- 36 (1) A:
- 37 (A) federal;
- 38 (B) state; or
- 39 (C) local;
- 40 law enforcement officer.
- 41 (2) A person who may legally possess a firearm and who has been
- 42 authorized by:



- 1 (A) a school board (as defined by IC 20-26-9-4); or
- 2 (B) the body that administers a charter school established
- 3 under IC 20-24;
- 4 to carry a firearm in or on school property.
- 5 (3) Except as provided in subsection (b), **or** (c), **or** (d), a person
- 6 who:
- 7 (A) may legally possess a firearm; and
- 8 (B) possesses the firearm in a motor vehicle.
- 9 (4) A person who is a school resource officer, as defined in
- 10 IC 20-26-18.2-1.
- 11 (5) Except as provided in subsection (b) or (c), a person who:
- 12 (A) may legally possess a firearm; and
- 13 (B) possesses only a firearm that is:
- 14 (i) locked in the trunk of the person's motor vehicle;
- 15 (ii) kept in the glove compartment of the person's locked
- 16 motor vehicle; or
- 17 (iii) stored out of plain sight in the person's locked motor
- 18 vehicle.
- 19 (b) For purposes of subsection (a)(3) and (a)(5), a person does not
- 20 include a person who is:
- 21 (1) enrolled as a student in any high school except if the person is
- 22 a high school student and is a member of a shooting sports team
- 23 and the school's principal has approved the person keeping a
- 24 firearm concealed in the person's motor vehicle on the days the
- 25 person is competing or practicing as a member of a shooting
- 26 sports team; or
- 27 (2) a former student of the school if the person is no longer
- 28 enrolled in the school due to a disciplinary action within the
- 29 previous twenty-four (24) months.
- 30 (c) For purposes of subsection (a)(3) and (a)(5), a motor vehicle
- 31 does not include a motor vehicle owned, leased, or controlled by a
- 32 school or school district unless the person who possesses the firearm
- 33 is authorized by the school or school district to possess a firearm.
- 34 **(d) Subsection (a)(3) does not apply to a person who uses the**
- 35 **firearm to commit an offense on school property.**
- 36 SECTION 11. IC 35-50-3-1 IS AMENDED TO READ AS
- 37 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) The court may
- 38 suspend any part of a sentence for a misdemeanor.
- 39 (b) Except as provided in subsection (c), whenever the court
- 40 suspends in whole or in part a sentence for a Class A, Class B, or Class
- 41 C misdemeanor, it may place the person on probation under IC 35-38-2
- 42 for a fixed period of not more than one (1) year, notwithstanding the



1 maximum term of imprisonment for the misdemeanor set forth in  
2 sections 2 through 4 of this chapter. However, the combined term of  
3 imprisonment and probation for a misdemeanor may not exceed one (1)  
4 year.

5 (c) Whenever the court suspends a sentence for a misdemeanor, if  
6 the court finds that the use or abuse of alcohol, drugs, or harmful  
7 substances is a contributing factor or a material element of the offense,  
8 the court may place the person on probation under IC 35-38-2 for a  
9 fixed period of not more than two (2) years. ~~However, a court may not~~  
10 ~~place a person on probation for a period of more than twelve (12)~~  
11 ~~months in the absence of a report that substantiates the need for a~~  
12 ~~period of probation that is longer than twelve (12) months for the~~  
13 ~~purpose of completing a course of substance abuse treatment. A~~  
14 probation user's fee that exceeds fifty percent (50%) of the maximum  
15 probation user's fee allowed under IC 35-38-2-1 may not be required  
16 beyond the first twelve (12) months of probation.



## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 486, 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, line 4, delete "amount" and insert "**presence**".

Page 1, line 5, delete "whole".

Page 1, delete lines 10 through 17.

Delete pages 2 through 3.

Page 4, delete lines 1 through 28.

Page 5, line 4, delete "and amount".

Page 6, delete lines 6 through 10.

Page 8, delete lines 15 through 42, begin a new paragraph and insert:

"SECTION 3. IC 35-42-2-1.3, AS AMENDED BY P.L.65-2016, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.3. (a) Except as provided in subsections (b) through (f), a person who knowingly or intentionally:

(1) touches a family or household member in a rude, insolent, or angry manner; or

(2) in a rude, insolent, or angry manner places any bodily fluid or waste on a family or household member;

commits domestic battery, a Class A misdemeanor.

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

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

(A) for a battery offense included in this chapter; ~~or~~

**(B) for a strangulation offense under IC 35-42-2-9; or**

~~(B)~~ **(C)** 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:

**(i) a battery offense included in this chapter; or**

**(ii) a strangulation offense under IC 35-42-2-9.**

(2) The person who committed the offense is at least eighteen (18) years of age and committed the offense against a family or household member 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.

(3) The offense results in moderate bodily injury to a family or



household member.

(4) The offense is committed against a family or household member who is less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

(5) The offense is committed against a family or household member of any age who has a mental or physical disability and is committed by a person having the care of the family or household member with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(6) The offense is committed against a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

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

(1) The offense results in serious bodily injury to a family or household member.

(2) The offense is committed with a deadly weapon against a family or household member.

(3) The offense results in bodily injury to a pregnant family or household member 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 family or household member; or

(B) against the same family or household member 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 family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

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

(C) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

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





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

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

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

(2) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

SECTION 4. IC 35-42-2-9, AS AMENDED BY P.L.252-2017, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) This section does not apply to a medical procedure.

(b) As used in this section, "torso" means any part of the upper body from the collarbone to the hips.

(c) A person who, in a rude, angry, or insolent manner, knowingly or intentionally:

(1) applies pressure to the throat or neck of another person;

(2) obstructs the nose or mouth of the another person; or

(3) applies pressure to the torso of another person;

in a manner that impedes the normal breathing or the blood circulation of the other person commits strangulation, a Level 6 felony.

(d) However, the offense under subsection (c) is a Level 5 felony if:

(1) the offense is committed **by a person:**

(A) against a pregnant woman; and

(2) ~~(B) the person who committed the offense~~ **(B) the person** who committed the offense knew the victim was pregnant at the time of the offense;

**(2) the person has a prior unrelated conviction under this section; or**

**(3) the person has a prior unrelated conviction in any jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements set forth in this section."**

Delete pages 9 through 10.

Page 11, delete lines 1 through 33.

Page 14, delete lines 19 through 42.

Page 15, delete lines 1 through 8.

Page 15, line 15, delete "amount" and insert "**presence**".

Page 15, line 16, delete "whole".

Page 16, delete lines 21 through 42, begin a new paragraph and



insert:

"SECTION 17. IC 35-50-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) The court may suspend any part of a sentence for a misdemeanor.

(b) Except as provided in subsection (c), whenever the court suspends in whole or in part a sentence for a Class A, Class B, or Class C misdemeanor, it may place the person on probation under IC 35-38-2 for a fixed period of not more than one (1) year, notwithstanding the maximum term of imprisonment for the misdemeanor set forth in sections 2 through 4 of this chapter. However, the combined term of imprisonment and probation for a misdemeanor may not exceed one (1) year.

(c) Whenever the court suspends a sentence for a misdemeanor, if the court finds that the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense, the court may place the person on probation under IC 35-38-2 for a fixed period of not more than two (2) years. ~~However, a court may not place a person on probation for a period of more than twelve (12) months in the absence of a report that substantiates the need for a period of probation that is longer than twelve (12) months for the purpose of completing a course of substance abuse treatment. A~~ probation user's fee that exceeds fifty percent (50%) of the maximum probation user's fee allowed under IC 35-38-2-1 may not be required beyond the first twelve (12) months of probation."

Delete page 17.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 486 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 6, Nays 3.

---

#### SENATE MOTION

Madam President: I move that Senate Bill 486 be amended to read as follows:

Page 10, line 7, after "II;" delete "or".

Page 10, between lines 7 and 8, begin a new line block indented and insert:

**SB 486—LS 7104/DI 106**



**"(2) the common nuisance is used as a location for a person to pay, offer to pay, or agree to pay for a human trafficking victim or an act performed by a human trafficking victim as set forth in subsection (a)(4); or".**

Page 10, line 8, delete "(2)" and insert "(3)".

(Reference is to SB 486 as printed February 15, 2019.)

KOCH

