

# NEW LEGISLATION

# 2000



Steve Stewart  
Clark County  
Prosecuting Attorney  
[www.clarkprosecutor.org](http://www.clarkprosecutor.org)  
[prosatty@aye.net](mailto:prosatty@aye.net)  
285-6264 / FAX 285-6259

## CRIMES AGAINST PERSONS

**IC 33-19-6-13 (P.L. 47, §1-3)**

### DOMESTIC BATTERY

**IC 35-33-1-1 (P.L. 47, § 2) IC 35-42-2-1.3 (P.L. 47, § 3)**

- ▶ Requires Clerk to collect an additional Domestic Violence Fee of \$50 as part of court costs upon conviction of homicide, Battery, or Domestic Battery, where the victim is or was the spouse of, living as if the spouse of, or has a child in common with, the defendant.
- ▶ Allows for an arrest for Domestic Violence based merely upon probable cause.
- ▶ Authorizes enhanced punishment (from Class A Misdemeanor to Class D Felony) upon conviction for Domestic Violence, and the defendant has a prior felony conviction under former provisions of Battery statute.

**IC 35-41-4-2 (P.L. 9, §1)**

### HOMICIDE / "YEAR AND A DAY RULE"

- ▶ Amends Statute of Limitations for Murder, allowing for a prosecution to commence at any time, regardless of when the injury was first inflicted, and when victim died. (In response to common law rule requiring a homicide prosecution to be commenced within a year and a day following defendant's act)

**IC 35-42-2-1 (P.L. 43, §1)**

### BATTERY ON FIREFIGHTERS

- ▶ Amends Battery statute to provide the same enhanced penalties for battery upon a firefighter as now exists for battery upon a law enforcement officer. (Class A Misdemeanor for touching, Class D Felony if bodily injury results)

## **WEAPONS**

### **IC 35-47-5-2 (P.L. 70, §2)**

### **PROPELLED KNIFE BLADES**

- ▶ Amends switchblade statute, making it also a Class B Misdemeanor to possess a knife blade which may be propelled by hand pressure on a button, spring or other device.

### **IC 35-47-4.5 (P.L. 70, §1)**

### **LASER POINTERS**

- ▶ Creates a new statute making it a Class B Misdemeanor to knowingly or intentionally direct light from a laser pointer at a public safety officer. "Public Safety Officer" is defined and includes most law enforcement officers, except not Judges or Prosecutors. Also includes Probation Officers, Reserves, EMT, Firefighter.

### **IC 35-41-1-4.3, IC 35-41-1-6.6 (P.L. 104, §1-2)**

### **BOMBS**

### **IC 35-47-5 (P.L. 104, §3-5)**

- ▶ Creates statutory definition of "Bomb" and "Dangerous Gas." Exempts firearms, ammunition, flares, fireworks, powder for antique devices.
- ▶ Expands Class B Felony crime from "hurls or drops" a bomb, to include "places or detonates" a bomb.
- ▶ Adds a defense to the crime of Possessing a Bomb (Class C Felony) and Detonating a Bomb (Class B Felony), to persons lawfully engaged in the use of any material "for the sole purpose of industrial, agricultural, mining, construction, educational, or any other lawful use."

## **SEX CRIMES**

### **IC 35-45-4-1 (P.L. 121, §1)**

### **PUBLIC INDECENCY**

- ▶ Amends statute to authorize an enhanced penalty (Class A Misdemeanor to Class D Felony) for Public Indecency where the crime is committed in a public park, on DNR property, or on school property, and the defendant has a prior conviction entered after June 30, 2000.

## **CHILD NEGLECT**

### **IC 35-46-1-4 (P.L. 133, §10) IC 31-34-2.5 (P.L. 133, §3)**

### **ABANDONED BABIES**

- ▶ Allows an emergency medical services provider to take custody of an abandoned infant not more than 30 days of age if voluntarily abandoned by the parent.
- ▶ Creates a defense to the crime of Neglect of a Dependent, where the parent leaves an infant child not more than 30 days of age with an emergency medical provider, and no bodily injury is caused to the child.

## **DOC / CORRECTIONS**

### **IC 11-10-8-9 (P.L. 90, § 2)**

### **COMMUNITY TRANSITION PROGRAM**

### **IC 35-50-1-7 (P.L. 90, §19)**

- ▶ Requires Court upon sentencing to notify DOC of victim's last known name and address. It is incumbent on victim to notify DOC of any change.
- ▶ Requires DOC to notify victim before assignment to Community Transition or Work Release Program. Victim may then file written objection to Court or DOC within 10 days.

### **IC 11-10-11.5 (P.L. 90, § 3-15)**

- ▶ Makes those inmates serving a sentence of less than 2 years ineligible for Community Transition.
- ▶ Makes those inmates residing outside the state ineligible for Community Transition.
- ▶ Requires DOC to send notice of inmate's eligibility for Community Transition to EACH sentencing court, and all must agree before inmate can be assigned.
- ▶ Upon request, Prosecutor may review information sent to court by DOC.
- ▶ Upon assignment to Community Transition, inmate must agree in writing to rules and conditions. Upon a finding of probable cause to believe a violation, the Community Transition Program shall cause the inmate to be immediately returned to DOC.
- ▶ Unless indigent, an inmate in the Community Transition Program is responsible for medical expenses.

(1999 statutes created the DOC Community Transition Program essentially to reduce the inmate population in Indiana prisons through early release back to supervised probation or to a community corrections program in the sentencing county. Class D Felons are released 30 days early, and Class C Felons are released 90 days early, unless the sentencing court objects. Class A and Class B Felons are released 120 days early, but only if the Court makes a specific finding that it is in the best interests of justice to do so. Written findings are required, but no hearing is necessary. The DOC is required to send notice to the Court and the Prosecutor 45-60 days before the inmate becomes eligible for Community Transition.)

### **IC 36-8-10-21 (P.L. 80, §1)**

### **SHERIFF COMMISSARY FUNDS**

- ▶ Reduces the discretion of Sheriff in use of Commissary Funds without approval of County Council. Removes the provision allowing the Sheriff to spend "for any purpose that benefits Sheriff's Department," and is replaced by broad but more specific purposes.

# TRAFFIC

## IC 9-21-8-35 (P.L. 39, §7)

## APPROACHING TOW TRUCK PENALTIES

## IC 9-21-8-54 (P.L. 39, §8)

- ▶ Amends statute relating to traffic approaching emergency vehicles to include “stationary recovery vehicles” and “stationary highway maintenance vehicles,” requiring the approaching driver to proceed with caution, reduce speed, and change lanes away from vehicle, if it can be done safely.
- ▶ Class A Infraction (Up to \$5,000) for violation.
- ▶ If property damage of at least \$250 results, mandatory license suspension of 90 days to 1 year. If bodily injury results, mandatory license suspension of 180 days to 2 years. If death results, mandatory license suspension of 2 years.

## IC 9-21-5-13 (P.L. 42, §1)

## SPEEDING IN SCHOOL ZONE

- ▶ Increases the penalty for speeding in a school zone from a Class C Infraction (up to \$500) to a Class B Infraction (up to \$1,000)

## IC 9-30-5 (P.L. 1) EFFECTIVE UPON PASSAGE

## OWI

- ▶ Amends various statutes relating to Operating a Vehicle While Intoxicated.
- ▶ Eliminates the percentage language and references to “by weight” or BAC.
- ▶ Now reads: “A person who operates a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol . . . per 210 liters of the person’s breath.”

## IC 9-24-19 (P.L. 32, §1)

## DUS

## IC 9-24-18-5 (P.L. 32, §27)

- ▶ Former DUS statutes under IC 9-24-18-5 are repealed and recodified under IC 9-24-19, with duplicated language eliminated and made clearer, hopefully.
- ▶ Class A Infraction for driving while suspended. (E.g. suspended for FTA on traffic ticket, or before conviction on OWI)
- ▶ Class A Misdemeanor for 2nd Infraction offense within 10 years.
- ▶ Class A Misdemeanor if suspended as a result of a conviction for a crime, enhanced to a Class D Felony if it results in bodily injury, and a Class C Felony if it results in death.
- ▶ A criminal conviction under this chapter also mandates an additional license suspension of 90 days to 2 years.
- ▶ Service of notice of the suspension by mail to the last known address by the BMV creates a rebuttable presumption of knowledge by the defendant of the suspension.

**IC 31-37-5-7 (P.L. 32, §20)**

**JUVENILE COURT OWI**

**IC 31-37-19-17.3 (P.L. 32, §22)**

- ▶ Generally makes rules and procedures for OWI in adult court applicable in Juvenile Court proceedings, including pre-adjudication suspension of driving privileges.

**IC 9-20-3 (P.L. 79, §1-2)**

**RECREATIONAL VEHICLES**

- ▶ Extends maximum allowable length for recreational vehicles from 40 to 45 feet.
- ▶ Extends maximum allowable width for recreational vehicles (8 feet 6 inches), to allow for “appurtenances” that do not extend beyond manufacturer installed rear view mirrors.

**IC 14-8-2-129 (P.L. 38, §1)**

**WATERCRAFT IDLE SPEED**

**IC 14-15-3-17 (P.L. 38, §3)**

- ▶ Changes definition of “idle speed” from 10 MPH to “slowest possible speed that maintains steerage, not greater than 5 MPH. (Applicable to requirement that watercraft operated within 200 feet of shore on lake, must be operated at idle speed to reduce wake)

## **ALCOHOL AND TOBACCO**

**IC 7.1-3-18 (P.L. 125, §1-3)**

**SERVING INTOXICATED PERSON**

**IC 7.1-3-23-7 (P.L. 125, §4) IC 7.1-5-10-15**

- ▶ Allows for ABC to suspend the permit of a person charged with serving an intoxicated person under IC 7.1-5-10-15(a) until disposition of charges.
- ▶ Requires Prosecuting Attorney to notify ABC of person charged.
- ▶ Requires ABC to revoke the permit of an employee or bartender convicted of serving an intoxicated person under IC 7.1-5-10-15(a).

**IC 4-12 (P.L. 21)**

**TOBACCO SETTLEMENT**

**IC 24-3 (P.L. 21)**

- ▶ Creates various criminal offenses relating to the improper sale and distribution of tobacco products as part of the Settlement Agreement with tobacco companies.
- ▶ Gives Department of Revenue or law enforcement officers the power to enforce.
- ▶ Gives Attorney General or Prosecutors the power to prosecute.

## MISCELLANEOUS

**IC 34-28-5-1 (P.L. 98, §12)**

**VENUE**

**IC 35-32-2-1 (P.L. 98, §16)**

- ▶ Amends statute to allow the Prosecuting Attorney of either county who share a common boundary to prosecute an INFRACTION OFFENSE that takes place on a public highway which runs along that common boundary.
- ▶ Amends statute to allow the Prosecuting Attorney of either county who share a common boundary to prosecute a CRIME committed on a public highway which runs along that common boundary.

**IC 5-2-5-1 (P.L. 24, §1)**

**HATE CRIMES / BIAS CRIMES**

**IC 5-2-5-14.3 (P.L. 24, §2)**

- ▶ Creates new statute requiring all law enforcement agencies to collect information on “bias crimes” and report such information twice a year to the state central repository for criminal history information.
- ▶ Defines “bias crime” as a crime committed because of the “color, creed, disability, national origin, race, religion, or sexual orientation” of the victim, or because the victim was associated with a group.
- ▶ Does NOT create a new crime or aggravating circumstance.

**IC 5-2-6.1-35 (P.L. 55, §1)**

**VICTIM COMPENSATION**

- ▶ Increases the maximum award available from the crime victim’s compensation fund per victim from \$10,000 to \$15,000.

**IC 25-5.1-4-2 (P.L. 87, §1)**

**ATHLETIC TRAINERS**

- ▶ Increases the penalty from a Class C Infraction (\$500) to a Class B Misdemeanor for violation of chapter requiring athletic trainers to be licensed and certified by the state.

\* This is a summary and should not be relied upon. Please refer to text of statute.

\* All statutes are effective July 1, 2000 unless otherwise indicated.

This is a publication of the Clark County Prosecuting Attorney, covering various topics of interest to police and prosecutors. It is directed solely toward issues of evidence, criminal law and procedure. Please consult your city, town or county attorney for legal advice relating to civil liability.