

HOUSE BILL No. 1331

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-42-2-9; IC 35-50-1-2.

Synopsis: Strangulation. Enhances the penalties for strangulation.

Effective: July 1, 2021.

Gore

January 14, 2021, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1331

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 35-42-2-9, AS AMENDED BY P.L.142-2020,
2 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 9. (a) This section does not apply to a medical
4 procedure.
5 (b) As used in this section, "torso" means any part of the upper body
6 from the collarbone to the hips.
7 (c) A person who, in a rude, angry, or insolent manner, knowingly
8 or intentionally:
9 (1) applies pressure to the throat or neck of another person;
10 (2) obstructs the nose or mouth of the another person; or
11 (3) applies pressure to the torso of another person;
12 in a manner that impedes the normal breathing or the blood circulation
13 of the other person commits strangulation, a ~~Level 6~~ **Level 5** felony.
14 (d) However, the offense under subsection (c) is a ~~Level 5~~ **Level 4**
15 felony if:
16 (1) the offense is committed by a person:
17 (A) against a pregnant woman; and



- 1 (B) who knew the victim was pregnant at the time of the
 2 offense; or
 3 (2) the person has a prior unrelated conviction under this section.
 4 SECTION 2. IC 35-50-1-2, AS AMENDED BY P.L.142-2020,
 5 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2021]: Sec. 2. (a) As used in this section, "crime of violence"
 7 means the following:
 8 (1) Murder (IC 35-42-1-1).
 9 (2) Attempted murder (IC 35-41-5-1).
 10 (3) Voluntary manslaughter (IC 35-42-1-3).
 11 (4) Involuntary manslaughter (IC 35-42-1-4).
 12 (5) Reckless homicide (IC 35-42-1-5).
 13 (6) Battery (IC 35-42-2-1) as a:
 14 (A) Level 2 felony;
 15 (B) Level 3 felony;
 16 (C) Level 4 felony; or
 17 (D) Level 5 felony.
 18 (7) Domestic battery (IC 35-42-2-1.3) as a:
 19 (A) Level 2 felony;
 20 (B) Level 3 felony;
 21 (C) Level 4 felony; or
 22 (D) Level 5 felony.
 23 (8) Aggravated battery (IC 35-42-2-1.5).
 24 (9) Kidnapping (IC 35-42-3-2).
 25 (10) Rape (IC 35-42-4-1).
 26 (11) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 27 (12) Child molesting (IC 35-42-4-3).
 28 (13) Sexual misconduct with a minor as a Level 1 felony under
 29 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
 30 (14) Robbery as a Level 2 felony or a Level 3 felony (IC
 31 35-42-5-1).
 32 (15) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 33 or Level 4 felony (IC 35-43-2-1).
 34 (16) Operating a vehicle while intoxicated causing death or
 35 catastrophic injury (IC 9-30-5-5).
 36 (17) Operating a vehicle while intoxicated causing serious bodily
 37 injury to another person (IC 9-30-5-4).
 38 (18) Child exploitation as a Level 5 felony under IC 35-42-4-4(b)
 39 or a Level 4 felony under IC 35-42-4-4(c).
 40 (19) Resisting law enforcement as a felony (IC 35-44.1-3-1).
 41 (20) Unlawful possession of a firearm by a serious violent felon
 42 (IC 35-47-4-5).



- 1 (21) Strangulation (IC 35-42-2-9). ~~as a Level 5 felony.~~
- 2 (b) As used in this section, "episode of criminal conduct" means
- 3 offenses or a connected series of offenses that are closely related in
- 4 time, place, and circumstance.
- 5 (c) Except as provided in subsection (e) or (f) the court shall
- 6 determine whether terms of imprisonment shall be served concurrently
- 7 or consecutively. The court may consider the:
- 8 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
- 9 (2) mitigating circumstances in IC 35-38-1-7.1(b);
- 10 in making a determination under this subsection. The court may order
- 11 terms of imprisonment to be served consecutively even if the sentences
- 12 are not imposed at the same time. However, except for crimes of
- 13 violence, the total of the consecutive terms of imprisonment, exclusive
- 14 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10
- 15 (before its repeal) to which the defendant is sentenced for felony
- 16 convictions arising out of an episode of criminal conduct shall not
- 17 exceed the period described in subsection (d).
- 18 (d) Except as provided in subsection (c), the total of the consecutive
- 19 terms of imprisonment to which the defendant is sentenced for felony
- 20 convictions arising out of an episode of criminal conduct may not
- 21 exceed the following:
- 22 (1) If the most serious crime for which the defendant is sentenced
- 23 is a Level 6 felony, the total of the consecutive terms of
- 24 imprisonment may not exceed four (4) years.
- 25 (2) If the most serious crime for which the defendant is sentenced
- 26 is a Level 5 felony, the total of the consecutive terms of
- 27 imprisonment may not exceed seven (7) years.
- 28 (3) If the most serious crime for which the defendant is sentenced
- 29 is a Level 4 felony, the total of the consecutive terms of
- 30 imprisonment may not exceed fifteen (15) years.
- 31 (4) If the most serious crime for which the defendant is sentenced
- 32 is a Level 3 felony, the total of the consecutive terms of
- 33 imprisonment may not exceed twenty (20) years.
- 34 (5) If the most serious crime for which the defendant is sentenced
- 35 is a Level 2 felony, the total of the consecutive terms of
- 36 imprisonment may not exceed thirty-two (32) years.
- 37 (6) If the most serious crime for which the defendant is sentenced
- 38 is a Level 1 felony, the total of the consecutive terms of
- 39 imprisonment may not exceed forty-two (42) years.
- 40 (e) If, after being arrested for one (1) crime, a person commits
- 41 another crime:
- 42 (1) before the date the person is discharged from probation,



1 parole, or a term of imprisonment imposed for the first crime; or
2 (2) while the person is released:
3 (A) upon the person's own recognizance; or
4 (B) on bond;
5 the terms of imprisonment for the crimes shall be served consecutively,
6 regardless of the order in which the crimes are tried and sentences are
7 imposed.
8 (f) If the factfinder determines under IC 35-50-2-11 that a person
9 used a firearm in the commission of the offense for which the person
10 was convicted, the term of imprisonment for the underlying offense and
11 the additional term of imprisonment imposed under IC 35-50-2-11
12 must be served consecutively.

