

HOUSE BILL No. 1379

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-84.8; IC 34-23-2-1; IC 35-31.5-2; IC 35-41-3; IC 35-42.

Synopsis: Unborn children. Modifies the definition of "human being" in the criminal code to include an unborn child. Removes applicability language concerning certain abortions in the wrongful death or injury of a child statutes. Clarifies the duress defense relating to culpability. Repeals the section that provides that the homicide chapter does not apply to certain abortions. Removes language from the murder, manslaughter, and involuntary manslaughter statutes regarding intentionally killing a fetus. Repeals the crime of feticide. Repeals the section that concerns the applicability of certain crimes related to abortion, the termination of a pregnancy, or the killing of a fetus. Provides that the homicide and battery chapters apply to a victim who is an unborn child.

Effective: July 1, 2024.

Sweet

January 10, 2024, read first time and referred to Committee on Courts and Criminal Code.



Introduced

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1379

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Whereas, the Fourteenth Amendment to the Constitution of the United States requires that "no state...shall deny to any person within its jurisdiction the equal protection of laws".

Whereas, innocent human life, created in the image of God, should be equally protected under the laws from fertilization to natural death.

Whereas, to ensure the right to life and equal protection of the laws, all preborn children should be protected with the same criminal and civil laws protecting the lives of born persons by repealing statutes that permit prenatal homicide and battery.

Whereas, all persons potentially subject to such laws are entitled to due process protections.

Whereas, pregnant mothers should be protected from being pressured to abort their children.

Whereas, statutes should be repealed that may allow a person to aid or induce a mother to abort her child: Therefore,

2024

IN 1379—LS 7056/DI 107



Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-9-2-84.8, AS AMENDED BY P.L.142-2020,
2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 84.8. "Nonwaivable offense", for purposes of this
4 title, means a conviction of any of the following felonies:

- 5 (1) Murder (IC 35-42-1-1).
6 (2) Causing suicide (IC 35-42-1-2).
7 (3) Assisting suicide (IC 35-42-1-2.5).
8 (4) Voluntary manslaughter (IC 35-42-1-3).
9 (5) Involuntary manslaughter (IC 35-42-1-4).
10 (6) Reckless homicide (IC 35-42-1-5).
11 ~~(7) Feticide (IC 35-42-1-6).~~
12 ~~(8)~~ (7) Battery (IC 35-42-2-1) within the past five (5) years.
13 ~~(9)~~ (8) Domestic battery (IC 35-42-2-1.3).
14 ~~(10)~~ (9) Aggravated battery (IC 35-42-2-1.5).
15 ~~(11)~~ (10) Criminal recklessness (IC 35-42-2-2) within the past
16 five (5) years.
17 ~~(12)~~ (11) Strangulation (IC 35-42-2-9).
18 ~~(13)~~ (12) Kidnapping (IC 35-42-3-2).
19 ~~(14)~~ (13) Criminal confinement (IC 35-42-3-3) within the past
20 five (5) years.
21 ~~(15)~~ (14) Human and sexual trafficking (IC 35-42-3.5).
22 ~~(16)~~ (15) A felony sex offense under IC 35-42-4.
23 ~~(17)~~ (16) Arson (IC 35-43-1-1) within the past five (5) years.
24 ~~(18)~~ (17) Incest (IC 35-46-1-3).
25 ~~(19)~~ (18) Neglect of a dependent (IC 35-46-1-4(a) and
26 IC 35-46-1-4(b)).
27 ~~(20)~~ (19) Child selling (IC 35-46-1-4(d)).
28 ~~(21)~~ (20) Reckless supervision (IC 35-46-1-4.1).
29 ~~(22)~~ (21) Nonsupport of a dependent child (IC 35-46-1-5) within
30 the past five (5) years.
31 ~~(23)~~ (22) Operating a motorboat while intoxicated (IC 35-46-9-6)
32 within the past five (5) years.
33 ~~(24)~~ (23) A felony involving a weapon under IC 35-47 within the
34 past five (5) years.
35 ~~(25)~~ (24) A felony relating to controlled substances under
36 IC 35-48-4 within the past five (5) years.
37 ~~(26)~~ (25) An offense relating to material or a performance that is
38 harmful to minors or obscene under IC 35-49-3.
39 ~~(27)~~ (26) A felony under IC 9-30-5 within the past five (5) years.



1 ~~(28)~~ **(27)** A felony related to the health or safety of a child (as
 2 defined in IC 31-9-2-13(h)) or an endangered adult (as defined in
 3 IC 12-10-3-2).

4 SECTION 2. IC 34-23-2-1, AS AMENDED BY P.L.129-2009,
 5 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2024]: Sec. 1. ~~(a)~~ **(a)** This section does not apply to an abortion
 7 performed in compliance with:

8 ~~(1)~~ IC 16-34; or

9 ~~(2)~~ IC 35-1-58.5 (before its repeal):

10 ~~(b)~~ **(a)** As used in this section, "child" means an unmarried
 11 individual without dependents who is:

12 (1) less than twenty (20) years of age; or

13 (2) less than twenty-three (23) years of age and is enrolled in a
 14 postsecondary educational institution or a career and technical
 15 education school or program that is not a postsecondary
 16 educational program.

17 The term includes a fetus that has attained viability (as defined in
 18 ~~IC 16-18-2-365~~). **at any stage of development from fertilization at
 19 the fusion of a human spermatozoon with a human ovum.**

20 ~~(c)~~ **(b)** An action may be maintained under this section against the
 21 person whose wrongful act or omission caused the injury or death of a
 22 child. The action may be maintained by:

23 (1) the father and mother jointly, or either of them by naming the

24 other parent as a codefendant to answer as to his or her interest;

25 (2) in case of divorce or dissolution of marriage, the person to
 26 whom custody of the child was awarded; and

27 (3) a guardian, for the injury or death of a protected person.

28 ~~(d)~~ **(c)** In case of death of the person to whom custody of a child was
 29 awarded, a personal representative shall be appointed to maintain the
 30 action for the injury or death of the child.

31 ~~(e)~~ **(d)** In an action brought by a guardian for an injury to a protected
 32 person, the damages inure to the benefit of the protected person.

33 ~~(f)~~ **(e)** In an action to recover for the death of a child, the plaintiff
 34 may recover damages:

35 (1) for the loss of the child's services;

36 (2) for the loss of the child's love and companionship; and

37 (3) to pay the expenses of:

38 (A) health care and hospitalization necessitated by the
 39 wrongful act or omission that caused the child's death;

40 (B) the child's funeral and burial;

41 (C) the reasonable expense of psychiatric and psychological
 42 counseling incurred by a surviving parent or minor sibling of



1 the child that is required because of the death of the child;
 2 (D) uninsured debts of the child, including debts for which a
 3 parent is obligated on behalf of the child; and
 4 (E) the administration of the child's estate, including
 5 reasonable attorney's fees.

6 ~~(g)~~ (f) Damages may be awarded under this section only with
 7 respect to the period of time from the death of the child until:

8 (1) the date that the child would have reached:

9 (A) twenty (20) years of age; or

10 (B) twenty-three (23) years of age, if the child was enrolled in
 11 a postsecondary educational institution or in a career and
 12 technical education school or program that is not a
 13 postsecondary educational program; or

14 (2) the date of the child's last surviving parent's death;

15 whichever first occurs.

16 ~~(h)~~ (g) Damages may be awarded under subsection ~~(f)(2)~~ (e)(2) only
 17 with respect to the period of time from the death of the child until the
 18 date of the child's last surviving parent's death.

19 ~~(i)~~ (h) Damages awarded under subsection ~~(f)(1)~~; ~~(f)(2)~~; ~~(f)(3)(C)~~;
 20 (e)(1), (e)(2), (e)(3)(C), and ~~(f)(3)(D)~~ (e)(3)(D) inure to the benefit of:

21 (1) the father and mother jointly if both parents had custody of the
 22 child;

23 (2) the custodial parent, or custodial grandparent, and the
 24 noncustodial parent of the deceased child as apportioned by the
 25 court according to their respective losses; or

26 (3) a custodial grandparent of the child if the child was not
 27 survived by a parent entitled to benefit under this section.

28 However, a parent or grandparent who abandoned a deceased child
 29 while the child was alive is not entitled to any recovery under this
 30 chapter.

31 ~~(j)~~ (i) This section does not affect or supersede any other right,
 32 remedy, or defense provided by any other law.

33 SECTION 3. IC 35-31.5-2-132 IS REPEALED [EFFECTIVE JULY
 34 1, 2024]. Sec. 132. "Fetus", for purposes of IC 35-42-1-4, has the
 35 meaning set forth in IC 35-42-1-4(a).

36 SECTION 4. IC 35-31.5-2-160, AS ADDED BY P.L.114-2012,
 37 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2024]: Sec. 160. "Human being" means an individual who ~~has~~
 39 **been born and is alive and includes an unborn child at any stage of**
 40 **development from fertilization at the fusion of a human**
 41 **spermatozoon with a human ovum.**

42 SECTION 5. IC 35-41-3-8 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 8. (a) **Except as**
 2 **provided in subsections (b) and (c)**, it is a defense that the person who
 3 engaged in the prohibited conduct was compelled to do so by threat of
 4 imminent serious bodily injury to himself or another person. With
 5 respect to offenses other than felonies, it is a defense that the person
 6 who engaged in the prohibited conduct was compelled to do so by force
 7 or threat of force. Compulsion under this section exists only if the
 8 force, threat, or circumstances are such as would render a person of
 9 reasonable firmness incapable of resisting the pressure.

10 (b) This section does not apply to a person who:

11 (1) recklessly, knowingly, or intentionally placed himself in a
 12 situation in which it was foreseeable that he would be subjected
 13 to duress; or

14 (2) **except as provided in subsection (c)**, committed an offense
 15 against the person as defined in IC 35-42.

16 **(c) This section applies to a person who committed an offense**
 17 **against the person as defined in IC 35-42 if the victim was an**
 18 **unborn child and the defendant is the unborn child's mother.**

19 SECTION 6. IC 35-41-3-12 IS REPEALED [EFFECTIVE JULY 1,
 20 2024]. Sec. 12. (a) It is a defense to any crime involving the death of or
 21 injury to a fetus that the defendant was a pregnant woman who
 22 committed the unlawful act with the intent to terminate her pregnancy.

23 (b) Except as provided in subsection (c); it is a defense to any crime
 24 involving the death of or injury to a fetus that the mother of the fetus
 25 requested that the defendant terminate her pregnancy; and that the
 26 death or injury to the fetus was the result of the defendant's termination
 27 or attempted termination of her pregnancy.

28 (c) Subsection (b) is not a defense to:

29 (1) performing an unlawful abortion under IC 16-34-2-7; or

30 (2) feticide (IC 35-42-1-6).

31 SECTION 7. IC 35-42-1-0.5 IS REPEALED [EFFECTIVE JULY
 32 1, 2024]. Sec. 0.5. Sections 1, 3, and 4 of this chapter do not apply to
 33 an abortion performed in compliance with:

34 (1) IC 16-34; or

35 (2) IC 35-1-58.5 (before its repeal).

36 SECTION 8. IC 35-42-1-0.6 IS ADDED TO THE INDIANA CODE
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 38 1, 2024]: Sec. 0.6. (a) **This chapter applies to a victim who is an**
 39 **unborn child and all human beings (as defined in**
 40 **IC 35-31.5-2-160).**

41 (b) **The enforcement of this chapter is subject to the same**
 42 **presumptions, defenses, justifications, immunities, and clemencies**



1 that would apply if the victim was an individual who was born
2 alive.

3 (c) This chapter does not apply to the unintentional death of an
4 unborn child when resulting from:

5 (1) the undertaking of life-saving procedures to save the life
6 of a mother when accompanied by reasonable steps to save
7 the life of an unborn child; or

8 (2) a spontaneous miscarriage.

9 (d) If a provision of law conflicts with this section, this section
10 prevails.

11 SECTION 9. IC 35-42-1-1, AS AMENDED BY P.L.215-2018(ss),
12 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2024]: Sec. 1. A person who:

14 (1) knowingly or intentionally kills another human being;

15 (2) kills another human being while committing or attempting to
16 commit arson, burglary, child molesting, consumer product
17 tampering, criminal deviate conduct (under IC 35-42-4-2 before
18 its repeal), kidnapping, rape, robbery, human trafficking,
19 promotion of human labor trafficking, promotion of human sexual
20 trafficking, promotion of child sexual trafficking, promotion of
21 sexual trafficking of a younger child, child sexual trafficking, or
22 carjacking (before its repeal); or

23 (3) kills another human being while committing or attempting to
24 commit:

25 (A) dealing in or manufacturing cocaine or a narcotic drug (IC
26 35-48-4-1);

27 (B) dealing in methamphetamine (IC 35-48-4-1.1);

28 (C) manufacturing methamphetamine (IC 35-48-4-1.2);

29 (D) dealing in a schedule I, II, or III controlled substance (IC
30 35-48-4-2);

31 (E) dealing in a schedule IV controlled substance (IC
32 35-48-4-3); or

33 (F) dealing in a schedule V controlled substance; or

34 (4) ~~except as provided in section 6.5 of this chapter, knowingly or~~
35 ~~intentionally kills a fetus in any stage of development;~~

36 commits murder, a felony.

37 SECTION 10. IC 35-42-1-3, AS AMENDED BY P.L.203-2018,
38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2024]: Sec. 3. (a) A person who knowingly or intentionally

40 (1) kills another human being or

41 (2) ~~except as provided in section 6.5 of this chapter, kills a fetus~~
42 ~~in any stage of development;~~



1 while acting under sudden heat commits voluntary manslaughter, a
2 Level 2 felony.

3 (b) The existence of sudden heat is a mitigating factor that reduces
4 what otherwise would be murder under section 1(1) of this chapter to
5 voluntary manslaughter.

6 SECTION 11. IC 35-42-1-4, AS AMENDED BY P.L.203-2018,
7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2024]: Sec. 4. (a) ~~As used in this section, "fetus" means a~~
9 ~~fetus in any stage of development.~~

10 ~~(b) A person who kills another human being while committing or~~
11 ~~attempting to commit:~~

12 (1) a Level 5 or Level 6 felony that inherently poses a risk of
13 serious bodily injury;

14 (2) a Class A misdemeanor that inherently poses a risk of serious
15 bodily injury; or

16 (3) battery;

17 ~~commits involuntary manslaughter, a Level 5 felony.~~

18 ~~(c) Except as provided in section 6.5 of this chapter, a person who~~
19 ~~kills a fetus while committing or attempting to commit:~~

20 (1) a Level 5 or Level 6 felony that inherently poses a risk of
21 serious bodily injury;

22 (2) a Class A misdemeanor that inherently poses a risk of serious
23 bodily injury;

24 (3) a battery offense included in IC 35-42-2; or

25 (4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a
26 vehicle while intoxicated);

27 ~~commits involuntary manslaughter, a Level 5 felony.~~

28 SECTION 12. IC 35-42-1-6 IS REPEALED [EFFECTIVE JULY 1,
29 2024]. Sec. 6: (a) This section does not apply to:

30 (1) the pregnant mother whose pregnancy is terminated;

31 (2) a person who in good faith provides medical treatment to a
32 pregnant woman that results in the accidental or unintentional
33 termination of the pregnancy; or

34 (3) a physician licensed under IC 25-22-5 who, upon the request
35 of a pregnant woman, performs a medical procedure to terminate
36 her pregnancy, even if the procedure is not authorized under
37 IC 16-34-2-1.

38 (b) A person who knowingly or intentionally terminates a human
39 pregnancy with an intention other than to produce a live birth or to
40 remove a dead fetus commits feticide; a Level 3 felony.

41 SECTION 13. IC 35-42-1-6.5 IS REPEALED [EFFECTIVE JULY
42 1, 2024]. Sec. 6.5: (a) The following sections of this chapter do not



1 apply to an abortion performed in compliance with IC 16-34-2:
 2 (1) Section 1 (murder);
 3 (2) Section 3 (voluntary manslaughter);
 4 (3) Section 4 (involuntary manslaughter);
 5 (4) Section 6 (feticide);
 6 (b) The following sections of this chapter do not apply to a pregnant
 7 woman who terminates her own pregnancy or kills a fetus that she is
 8 carrying:
 9 (1) Section 1 (murder);
 10 (2) Section 3 (voluntary manslaughter);
 11 (3) Section 4 (involuntary manslaughter);
 12 (4) Section 6 (feticide);
 13 SECTION 14. IC 35-42-2-0.3 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2024]: **Sec. 0.3. (a) This chapter applies to a**
 16 **victim who is an unborn child and all human beings (as defined in**
 17 **IC 35-31.5-2-160).**
 18 (b) The enforcement of this chapter is subject to the same
 19 presumptions, defenses, justifications, immunities, and clemencies
 20 that would apply if the victim was an individual who was born
 21 alive.
 22 (c) This chapter does not apply to the unintentional death of an
 23 unborn child when resulting from:
 24 (1) the undertaking of life-saving procedures to save the life
 25 of a mother when accompanied by reasonable steps to save
 26 the life of an unborn child; or
 27 (2) a spontaneous miscarriage.
 28 (d) If a provision of law conflicts with this section, this section
 29 prevails.

