



February 17, 2022

ENGROSSED SENATE BILL No. 70

DIGEST OF SB 70 (Updated February 16, 2022 2:39 pm - DI 131)

Citations Affected: IC 35-31.5; IC 35-38; IC 35-42; IC 35-44.1; IC 35-45; IC 35-46.

Synopsis: Obstruction of justice. Provides that a person commits obstruction of justice if the person induces a witness in a legal proceeding to: (1) withhold or delay producing evidence that the witness is legally required to produce; (2) avoid a subpoena or court order; (3) not appear at a proceeding to which the witness has been summoned; or (4) give a false or materially misleading statement. Provides that a person commits obstruction of justice, as a Level 5 felony, if the person induces a witness to give a false or materially misleading statement during the investigation or pendency of a domestic violence or child abuse case. Establishes a uniform definition of "communicates" for the criminal code. Makes other changes and conforming amendments.

Effective: July 1, 2022.

Crider, Young M, Houchin

(HOUSE SPONSOR — MCNAMARA)

January 4, 2022, read first time and referred to Committee on Corrections and Criminal Law.

January 6, 2022, amended, reported favorably — Do Pass.

January 11, 2022, read second time, amended, ordered engrossed.

January 12, 2022, engrossed.

January 18, 2022, read third time, passed. Yeas 39, nays 8.

HOUSE ACTION

January 31, 2022, read first time and referred to Committee on Courts and Criminal Code.

February 17, 2022, amended, reported — Do Pass.

ES 70—LS 6210/DI 131



February 17, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 70

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 35-31.5-2-47.5, AS ADDED BY P.L.123-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 47.5. "Communicates" **or "communicating"** for
4 purposes of IC 35-45-2-1, ~~has the meaning set forth in IC 35-45-2-1(e).~~
5 **means to make a statement to another person, directly, indirectly,**
6 **or through an intermediary. The term includes a statement made**
7 **to another person or on behalf of another person by any medium,**
8 **including in person, in writing, electronically, on a social**
9 **networking web site, or telephonically.**

10 SECTION 2. IC 35-31.5-2-330, AS AMENDED BY P.L.123-2013,
11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2022]: Sec. 330. "Threat", for purposes of IC 35-45-2-1, has
13 the meaning set forth in ~~IC 35-45-2-1(d).~~ **IC 35-45-2-1(c).**

14 SECTION 3. IC 35-38-2-2.7, AS ADDED BY P.L.247-2013,
15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2022]: Sec. 2.7. As a condition of probation or parole after
17 conviction for a sex offense (as defined in IC 11-8-8-5.2), the court

ES 70—LS 6210/DI 131



1 shall prohibit the convicted person from using a social networking web
 2 site or an instant messaging or chat room program to communicate
 3 ~~directly or through an intermediary~~, with a child less than sixteen (16)
 4 years of age. However, the court may permit the offender to
 5 communicate using a social networking web site or an instant
 6 messaging or chat room program with:

- 7 (1) the offender's own child, stepchild, or sibling; or
 8 (2) another relative of the offender specifically named in the
 9 court's order.

10 SECTION 4. IC 35-42-4-12, AS AMENDED BY P.L.168-2014,
 11 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2022]: Sec. 12. (a) This section applies only to a sex offender
 13 (as defined in IC 11-8-8-4.5).

14 (b) A sex offender who knowingly or intentionally violates a:

- 15 (1) condition of probation;
 16 (2) condition of parole; or
 17 (3) rule of a community transition program;

18 that prohibits the offender from using a social networking web site or
 19 an instant messaging or chat room program to communicate ~~directly or~~
 20 ~~through an intermediary~~, with a child less than sixteen (16) years of age
 21 commits a sex offender Internet offense, a Class A misdemeanor.
 22 However, the offense is a Level 6 felony if the person has a prior
 23 unrelated conviction under this section.

24 (c) It is a defense to a prosecution under subsection (b) that the
 25 person reasonably believed that the child was at least sixteen (16) years
 26 of age.

27 SECTION 5. IC 35-44.1-2-2, AS AMENDED BY P.L.174-2021,
 28 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2022]: Sec. 2. (a) A person who:

30 (1) knowingly or intentionally induces, by threat, coercion, false
 31 statement, or offer of goods, services, or anything of value, a
 32 witness or informant in a legal proceeding or an administrative or
 33 criminal investigation to:

- 34 (A) withhold or unreasonably delay in producing any
 35 testimony, information, document, or thing **that the witness**
 36 **or informant is legally required to produce;**
 37 (B) avoid legal process summoning the person to testify or
 38 supply evidence; or
 39 (C) absent the person from a proceeding or investigation to
 40 which the person has been legally summoned; or
 41 **(D) give a false or materially misleading statement;**

42 (2) knowingly or intentionally in a legal proceeding or an



- 1 administrative or criminal investigation:
- 2 (A) withholds or unreasonably delays in producing any
- 3 testimony, information, document, or thing after a court orders
- 4 the person to produce the testimony, information, document,
- 5 or thing;
- 6 (B) avoids legal process summoning the person to testify or
- 7 supply evidence; or
- 8 (C) absents the person from a proceeding or investigation to
- 9 which the person has been legally summoned;
- 10 (3) alters, damages, or removes any record, document, or thing,
- 11 with intent to prevent it from being produced or used as evidence
- 12 in any legal proceeding or administrative or criminal
- 13 investigation;
- 14 (4) makes, presents, or uses a false record, document, or thing
- 15 with intent that the record, document, or thing, material to the
- 16 point in question, appear in evidence in a legal proceeding or an
- 17 administrative or criminal investigation to mislead a public
- 18 servant; or
- 19 (5) communicates ~~directly or indirectly~~; with a juror otherwise
- 20 than as authorized by law, with intent to influence the juror
- 21 regarding any matter that is or may be brought before the juror;
- 22 commits obstruction of justice, a Level 6 felony, except as provided in
- 23 subsection (b).
- 24 (b) Except as provided in subsection (e), the offense ~~described in~~
- 25 ~~subsection (a)~~ is a Level 5 felony if, during the investigation or
- 26 pendency of a domestic violence or child abuse case under subsection
- 27 (c), a person knowingly or intentionally:
- 28 (1) offers, gives, or promises any benefit to;
- 29 (2) communicates a threat as defined by IC 35-45-2-1(c) to; or
- 30 (3) intimidates, unlawfully influences, or unlawfully persuades;
- 31 any witness to abstain from attending or giving testimony, **or to give**
- 32 **a false or materially misleading statement**, at any hearing, trial,
- 33 deposition, probation, or other criminal proceeding or from giving
- 34 testimony or other statements, **including giving a false or materially**
- 35 **misleading statement**, to a court or law enforcement officer under
- 36 IC 35-31.5-2-185.
- 37 (c) As used in this section, "domestic violence or child abuse case"
- 38 means any case involving an allegation of:
- 39 (1) the commission of a crime involving domestic or family
- 40 violence under IC 35-31.5-2-76 involving a family or household
- 41 member under IC 35-31.5-2-128;
- 42 (2) the commission of a crime of domestic violence under



- 1 IC 35-31.5-2-78 involving a family or household member under
 2 IC 35-31.5-2-128; or
 3 (3) physical abuse, sexual abuse, or child neglect, including
 4 crimes listed under IC 35-31.5-2-76 involving a victim who was
 5 less than eighteen (18) years of age at the time of the offense,
 6 whether or not the person is a family or household member under
 7 IC 35-31.5-2-128.
- 8 (d) Subsection (a)(2)(A) does not apply to:
 9 (1) a person who qualifies for a special privilege under IC 34-46-4
 10 with respect to the testimony, information, document, or thing; or
 11 (2) a person who, as:
 12 (A) an attorney;
 13 (B) a physician;
 14 (C) a member of the clergy; or
 15 (D) a husband or wife;
 16 is not required to testify under IC 34-46-3-1.
- 17 (e) ~~Subsection (b)~~ **does Subsections (a) and (b) do** not apply to:
 18 (1) an attorney;
 19 (2) an investigator;
 20 (3) a law enforcement officer; or
 21 (4) a judge;
 22 engaged in that person's professional or official duties.
- 23 SECTION 6. IC 35-45-2-1, AS AMENDED BY P.L.66-2019,
 24 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2022]: Sec. 1. (a) A person who communicates a threat with
 26 the intent:
 27 (1) that another person engage in conduct against the other
 28 person's will;
 29 (2) that another person be placed in fear of retaliation for a prior
 30 lawful act;
 31 (3) of:
 32 (A) causing:
 33 (i) a dwelling, a building, or other structure; or
 34 (ii) a vehicle;
 35 to be evacuated; or
 36 (B) interfering with the occupancy of:
 37 (i) a dwelling, building, or other structure; or
 38 (ii) a vehicle; or
 39 (4) that another person be placed in fear that the threat will be
 40 carried out, if the threat is a threat described in:
 41 (A) subsection ~~(d)(1)~~ **(c)(1)** through ~~(d)(5)~~ **(c)(5)**; or
 42 (B) subsection ~~(d)(7)~~ **(c)(7)** through ~~(d)(8)~~ **(c)(8)**;



1 commits intimidation, a Class A misdemeanor.

2 (b) However, the offense is a:

3 (1) Level 6 felony if:

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

5 (B) the subject of the threat or the person to whom the threat
6 is communicated is a witness (or the spouse or child of a
7 witness) in any pending criminal proceeding against the
8 person making the threat;

9 (C) the threat is communicated because of the occupation,
10 profession, employment status, or ownership status of a person
11 or the threat relates to or is made in connection with the
12 occupation, profession, employment status, or ownership
13 status of a person;

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

16 (E) the threat is communicated using property, including
17 electronic equipment or systems, of a school corporation or
18 other governmental entity; and

19 (2) Level 5 felony if:

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

22 (B) the subject of the threat or the person to whom the threat
23 is communicated:

24 (i) is a judicial officer or bailiff of any court; or

25 (ii) is a prosecuting attorney or a deputy prosecuting
26 attorney;

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

32 (C) the threat is:

33 (i) to commit terrorism; or

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

35 (c) "Communicates" includes posting a message electronically,
36 including on a social networking web site (as defined in
37 IC 35-31.5-2-307):

38 (d) (c) "Threat" means an expression, by words or action, of an
39 intention to:

40 (1) unlawfully injure the person threatened or another person, or
41 damage property;

42 (2) unlawfully subject a person to physical confinement or



- 1 restraint;
 2 (3) commit a crime;
 3 (4) unlawfully withhold official action, or cause such withholding;
 4 (5) unlawfully withhold testimony or information with respect to
 5 another person's legal claim or defense, except for a reasonable
 6 claim for witness fees or expenses;
 7 (6) expose the person threatened to hatred, contempt, disgrace, or
 8 ridicule;
 9 (7) falsely harm the credit or business reputation of a person; or
 10 (8) cause the evacuation of a dwelling, a building, another
 11 structure, or a vehicle. For purposes of this subdivision, the term
 12 includes an expression that would cause a reasonable person to
 13 consider the evacuation of a dwelling, a building, another
 14 structure, or a vehicle, even if the dwelling, building, structure, or
 15 vehicle is not evacuated.

16 SECTION 7. IC 35-45-10-3, AS AMENDED BY P.L.266-2019,
 17 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2022]: Sec. 3. (a) As used in this chapter, "impermissible
 19 contact" includes the following:

- 20 (1) Following or pursuing the victim.
 21 (2) Communicating with the victim. ~~in person, in writing, by~~
 22 ~~telephone, by telegraph, or through electronic means.~~
 23 (3) Posting on social media, if the post:
 24 (A) is directed to the victim; or
 25 (B) refers to the victim, directly or indirectly.

26 (b) The list in subsection (a) is nonexclusive.

27 SECTION 8. IC 35-46-1-13, AS AMENDED BY P.L.238-2015,
 28 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2022]: Sec. 13. (a) A person who:

- 30 (1) believes or has reason to believe that an endangered adult or
 31 person of any age who has a mental or physical disability is the
 32 victim of battery, neglect, or exploitation as prohibited by this
 33 chapter or IC 35-42-2-1; and
 34 (2) knowingly fails to report the facts supporting that belief to the
 35 division of disability and rehabilitative services, the division of
 36 aging, the adult protective services unit designated under
 37 IC 12-10-3, or a law enforcement agency having jurisdiction over
 38 battery, neglect, or exploitation of an endangered adult;
 39 commits a Class B misdemeanor.

40 (b) An officer or employee of the division or adult protective
 41 services unit who unlawfully discloses information contained in the
 42 records of the division of aging under IC 12-10-3-12 through



- 1 IC 12-10-3-15 commits a Class C infraction.
- 2 (c) A law enforcement agency that receives a report that an
3 endangered adult or person of any age who has a mental or physical
4 disability is or may be a victim of battery, neglect, or exploitation as
5 prohibited by this chapter or IC 35-42-2-1 shall immediately
6 ~~communicate~~ **transmit** the report to the adult protective services unit
7 designated under IC 12-10-3.
- 8 (d) An individual who discharges, demotes, transfers, prepares a
9 negative work performance evaluation, reduces benefits, pay, or work
10 privileges, or takes other action to retaliate against an individual who
11 in good faith makes a report under IC 12-10-3-9 concerning an
12 endangered individual commits a Class A infraction.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 70, 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, after "induces," insert "**by persuasion, or**".

Page 1, line 9, delete "thing;" and insert "**thing that the witness or informant is legally required to produce;**".

Page 1, line 11, strike "or".

Page 1, line 13, after "summoned;" insert "**or**

(D) give a false or materially misleading statement;".

Page 2, line 16, delete "communicates," and insert "communicates".

Page 2, line 16, strike "directly or indirectly,".

Page 2, line 26, reset in roman "or".

Page 2, delete lines 28 through 29.

Page 2, line 30, delete ", including".

Page 2, line 31, delete "giving untruthful testimony,".

Page 2, line 31, delete "taped".

Page 2, line 32, delete "statement,".

Page 2, line 33, delete ", including giving untruthful testimony,".

Page 3, line 15, strike "Subsection (b) does" and insert "**Subsections**

(a) and (b) do".

Page 3, reset in roman line 16.

Page 3, line 17, reset in roman "(2)".

Page 3, line 17, delete "(1)".

Page 3, line 18, reset in roman "(3)".

Page 3, line 18, delete "(2)".

Page 3, line 19, reset in roman "(4)".

Page 3, line 19, delete "(3)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 70 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 2.

ES 70—LS 6210/DI 131



SENATE MOTION

Madam President: I move that Senate Bill 70 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-31.5-2-47.5, AS ADDED BY P.L.123-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 47.5. "Communicates" **or "communicating"** for purposes of IC 35-45-2-1, ~~has the meaning set forth in IC 35-45-2-1(c).~~ **means to make a statement to another person, directly, indirectly, or through an intermediary. The term includes a statement made to another person or on behalf of another person by any medium, including in person, in writing, electronically, on a social networking web site, or telephonically.**

SECTION 2. IC 35-38-2-2.7, AS ADDED BY P.L.247-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2.7. As a condition of probation or parole after conviction for a sex offense (as defined in IC 11-8-8-5.2), the court shall prohibit the convicted person from using a social networking web site or an instant messaging or chat room program to communicate ~~directly or through an intermediary~~, with a child less than sixteen (16) years of age. However, the court may permit the offender to communicate using a social networking web site or an instant messaging or chat room program with:

- (1) the offender's own child, stepchild, or sibling; or
- (2) another relative of the offender specifically named in the court's order."

Page 3, after line 19, begin a new paragraph and insert:

"SECTION 4. IC 35-42-4-12, AS AMENDED BY P.L.168-2014, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 12. (a) This section applies only to a sex offender (as defined in IC 11-8-8-4.5).

(b) A sex offender who knowingly or intentionally violates a:

- (1) condition of probation;
- (2) condition of parole; or
- (3) rule of a community transition program;

that prohibits the offender from using a social networking web site or an instant messaging or chat room program to communicate ~~directly or through an intermediary~~, with a child less than sixteen (16) years of age commits a sex offender Internet offense, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior



unrelated conviction under this section.

(c) It is a defense to a prosecution under subsection (b) that the person reasonably believed that the child was at least sixteen (16) years of age.

SECTION 5. IC 35-45-2-1, AS AMENDED BY P.L.66-2019, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) A person who communicates a threat with the intent:

- (1) that another person engage in conduct against the other person's will;
- (2) that another person be placed in fear of retaliation for a prior lawful act;
- (3) of:
 - (A) causing:
 - (i) a dwelling, a building, or other structure; or
 - (ii) a vehicle;
 to be evacuated; or
 - (B) interfering with the occupancy of:
 - (i) a dwelling, building, or other structure; or
 - (ii) a vehicle; or
- (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);
 commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

- (1) Level 6 felony if:
 - (A) the threat is to commit a forcible felony;
 - (B) the subject of the threat or the person to whom the threat is communicated is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;
 - (C) the threat is communicated because of the occupation, profession, employment status, or ownership status of a person or the threat relates to or is made in connection with the occupation, profession, employment status, or ownership status of a person;
 - (D) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or
 - (E) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and



(2) Level 5 felony if:

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

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

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

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

~~(c)~~ "Communicates" includes posting a message electronically, including on a social networking web site (as defined in IC 35-31.5-2-307):

~~(d)~~ (c) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of a person; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle. 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.

SECTION 6. IC 35-45-10-3, AS AMENDED BY P.L.266-2019, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) As used in this chapter, "impermissible

ES 70—LS 6210/DI 131



contact" includes the following:

- (1) Following or pursuing the victim.
- (2) Communicating with the victim. ~~in person; in writing; by telephone; by telegraph; or through electronic means.~~
- (3) Posting on social media, if the post:
 - (A) is directed to the victim; or
 - (B) refers to the victim, directly or indirectly.

(b) The list in subsection (a) is nonexclusive.

SECTION 7. IC 35-46-1-13, AS AMENDED BY P.L.238-2015, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 13. (a) A person who:

- (1) believes or has reason to believe that an endangered adult or person of any age who has a mental or physical disability is the victim of battery, neglect, or exploitation as prohibited by this chapter or IC 35-42-2-1; and
- (2) knowingly fails to report the facts supporting that belief to the division of disability and rehabilitative services, the division of aging, the adult protective services unit designated under IC 12-10-3, or a law enforcement agency having jurisdiction over battery, neglect, or exploitation of an endangered adult;

commits a Class B misdemeanor.

(b) An officer or employee of the division or adult protective services unit who unlawfully discloses information contained in the records of the division of aging under IC 12-10-3-12 through IC 12-10-3-15 commits a Class C infraction.

(c) A law enforcement agency that receives a report that an endangered adult or person of any age who has a mental or physical disability is or may be a victim of battery, neglect, or exploitation as prohibited by this chapter or IC 35-42-2-1 shall immediately **communicate transmit** the report to the adult protective services unit designated under IC 12-10-3.

(d) An individual who discharges, demotes, transfers, prepares a negative work performance evaluation, reduces benefits, pay, or work privileges, or takes other action to retaliate against an individual who in good faith makes a report under IC 12-10-3-9 concerning an endangered individual commits a Class A infraction."

Re-number all SECTIONS consecutively.

(Reference is to SB 70 as printed January 7, 2022.)

YOUNG M



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 70, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 2. IC 35-31.5-2-330, AS AMENDED BY P.L.123-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 330. "Threat", for purposes of IC 35-45-2-1, has the meaning set forth in ~~IC 35-45-2-1(d)~~. **IC 35-45-2-1(c)**."

Page 2, delete lines 6 through 42

Page 3, delete lines 1 through 41.

Page 4, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 5. IC 35-44.1-2-2, AS AMENDED BY P.L.174-2021, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) A person who:

(1) knowingly or intentionally induces, by threat, coercion, false statement, or offer of goods, services, or anything of value, a witness or informant in a legal proceeding or an administrative or criminal investigation to:

(A) withhold or unreasonably delay in producing any testimony, information, document, or thing **that the witness or informant is legally required to produce;**

(B) avoid legal process summoning the person to testify or supply evidence; ~~or~~

(C) absent the person from a proceeding or investigation to which the person has been legally summoned; **or**

(D) give a false or materially misleading statement;

(2) knowingly or intentionally in a legal proceeding or an administrative or criminal investigation:

(A) withholds or unreasonably delays in producing any testimony, information, document, or thing after a court orders the person to produce the testimony, information, document, or thing;

(B) avoids legal process summoning the person to testify or supply evidence; or

(C) absents the person from a proceeding or investigation to which the person has been legally summoned;

(3) alters, damages, or removes any record, document, or thing, with intent to prevent it from being produced or used as evidence in any legal proceeding or administrative or criminal



investigation;

(4) makes, presents, or uses a false record, document, or thing with intent that the record, document, or thing, material to the point in question, appear in evidence in a legal proceeding or an administrative or criminal investigation to mislead a public servant; or

(5) communicates ~~directly or indirectly~~, with a juror otherwise than as authorized by law, with intent to influence the juror regarding any matter that is or may be brought before the juror; commits obstruction of justice, a Level 6 felony, except as provided in subsection (b).

(b) Except as provided in subsection (e), the offense ~~described in subsection (a)~~ is a Level 5 felony if, during the investigation or pendency of a domestic violence or child abuse case under subsection (c), a person knowingly or intentionally:

(1) offers, gives, or promises any benefit to;

(2) communicates a threat as defined by IC 35-45-2-1(c) to; or

(3) intimidates, unlawfully influences, or unlawfully persuades; any witness to abstain from attending or giving testimony, **or to give a false or materially misleading statement**, at any hearing, trial, deposition, probation, or other criminal proceeding or from giving testimony or other statements, **including giving a false or materially misleading statement**, to a court or law enforcement officer under IC 35-31.5-2-185.

(c) As used in this section, "domestic violence or child abuse case" means any case involving an allegation of:

(1) the commission of a crime involving domestic or family violence under IC 35-31.5-2-76 involving a family or household member under IC 35-31.5-2-128;

(2) the commission of a crime of domestic violence under IC 35-31.5-2-78 involving a family or household member under IC 35-31.5-2-128; or

(3) physical abuse, sexual abuse, or child neglect, including crimes listed under IC 35-31.5-2-76 involving a victim who was less than eighteen (18) years of age at the time of the offense, whether or not the person is a family or household member under IC 35-31.5-2-128.

(d) Subsection (a)(2)(A) does not apply to:

(1) a person who qualifies for a special privilege under IC 34-46-4 with respect to the testimony, information, document, or thing; or

(2) a person who, as:

(A) an attorney;



- (B) a physician;
- (C) a member of the clergy; or
- (D) a husband or wife;

is not required to testify under IC 34-46-3-1.

(e) ~~Subsection (b) does~~ **Subsections (a) and (b) do** not apply to:

- (1) an attorney;
- (2) an investigator;
- (3) a law enforcement officer; or
- (4) a judge;

engaged in that person's professional or official duties."

Page 4, line 35, strike "(d)(1)" and insert "**(c)(1)**".

Page 4, line 35, strike "(d)(5);" and insert "**(c)(5)**";".

Page 4, line 36, strike "(d)(7)" and insert "**(c)(7)**".

Page 4, line 36, strike "(d)(8);" and insert "**(c)(8)**";".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 70 as reprinted January 12, 2022.)

MCNAMARA

Committee Vote: yeas 9, nays 0.

