

## **IC 35-41-5**

### **Chapter 5. Offenses of General Applicability**

#### **IC 35-41-5-1**

##### **Attempt**

Sec. 1. (a) A person attempts to commit a crime when, acting with the culpability required for commission of the crime, the person engages in conduct that constitutes a substantial step toward commission of the crime. An attempt to commit a crime is a felony or misdemeanor of the same level or class as the crime attempted. However, an attempt to commit murder is a Level 1 felony.

(b) It is no defense that, because of a misapprehension of the circumstances, including the age of the intended victim in a prosecution for attempted child molesting (IC 35-42-4-3), it would have been impossible for the accused person to commit the crime attempted.

(c) For purposes of subsection (a), a person engages in conduct that constitutes a substantial step if the person, with the intent to commit a sex crime against a child or an individual the person believes to be a child:

- (1) communicates with the child or individual the person believes to be a child concerning the sex crime; and
- (2) travels to another location to meet the child or individual the person believes to be a child.

*As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.22; P.L.158-2013, SEC.408; P.L.247-2013, SEC.5; P.L.168-2014, SEC.64.*

#### **IC 35-41-5-2**

##### **Conspiracy**

Sec. 2. (a) A person conspires to commit a felony when, with intent to commit the felony, the person agrees with another person to commit the felony. A conspiracy to commit a felony is a felony of the same level as the underlying felony. However, a conspiracy to commit murder is:

- (1) a Level 2 felony if the conspiracy does not result in the death of a person; and
- (2) a Level 1 felony if the conspiracy results in the death of another person.

(b) The state must allege and prove that either the person or the person with whom he or she agreed performed an overt act in furtherance of the agreement.

(c) It is no defense that the person with whom the accused person is alleged to have conspired:

- (1) has not been prosecuted;
- (2) has not been convicted;
- (3) has been acquitted;
- (4) has been convicted of a different crime;
- (5) cannot be prosecuted for any reason; or

(6) lacked the capacity to commit the crime.  
*As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977,  
P.L.340, SEC.23; P.L.158-2013, SEC.409.*

**IC 35-41-5-3**

**Multiple convictions**

Sec. 3. (a) A person may not be convicted of both a conspiracy and an attempt with respect to the same underlying crime.

(b) A person may not be convicted of both a crime and an attempt to commit the same crime.

*As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977,  
P.L.340, SEC.24.*