

IC 35-45-4

Chapter 4. Indecent Acts and Prostitution

IC 35-45-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The enhanced penalty under section 5(b)(2) of this chapter, as added by P.L.7-2005, applies only if at least one (1) of the offenses is committed after June 30, 2005.

As added by P.L.220-2011, SEC.605. Amended by P.L.63-2012, SEC.59.

IC 35-45-4-1

Public indecency

Sec. 1. (a) A person who knowingly or intentionally, in a public place:

- (1) engages in sexual intercourse;
- (2) engages in other sexual conduct (as defined in IC 35-31.5-2-221.5);
- (3) appears in a state of nudity with the intent to arouse the sexual desires of the person or another person; or
- (4) fondles the person's genitals or the genitals of another person;

commits public indecency, a Class A misdemeanor.

(b) A person at least eighteen (18) years of age who knowingly or intentionally, in a public place, appears in a state of nudity with the intent to be seen by a child less than sixteen (16) years of age commits public indecency, a Class A misdemeanor.

(c) However, the offense under subsection (a) or (b) is a Level 6 felony if the person who commits the offense has a prior unrelated conviction:

- (1) under subsection (a) or (b); or
- (2) in another jurisdiction, including a military court, that is substantially equivalent to an offense described in subsection (a) or (b).

(d) As used in this section, "nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

(e) A person who, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place:

- (1) engages in sexual intercourse;
- (2) engages in other sexual conduct (as defined in IC 35-31.5-2-221.5);
- (3) fondles the person's genitals or the genitals of another person; or
- (4) appears in a state of nudity;

where the person can be seen by persons other than invitees and occupants of that place commits indecent exposure, a Class C misdemeanor.

As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.76; P.L.189-1984, SEC.1; P.L.215-1997, SEC.1; P.L.121-2000, SEC.1; P.L.123-2003, SEC.2; P.L.158-2013, SEC.524.

IC 35-45-4-1.5

Public nudity

Sec. 1.5. (a) As used in this section, "nudity" has the meaning set forth in section 1(d) of this chapter.

(b) A person who knowingly or intentionally appears in a public place in a state of nudity commits public nudity, a Class C misdemeanor.

(c) A person who knowingly or intentionally appears in a public place in a state of nudity with the intent to be seen by another person commits a Class B misdemeanor.

(d) A person who knowingly or intentionally appears in a state of nudity:

- (1) in or on school grounds;
- (2) in a public park; or
- (3) with the intent to arouse the sexual desires of the person or another person, in a department of natural resources owned or managed property;

commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this subsection or under subsection (c).

As added by P.L.123-2003, SEC.3. Amended by P.L.158-2013, SEC.525.

IC 35-45-4-2

Prostitution

Sec. 2. (a) A person who knowingly or intentionally:

- (1) performs, or offers or agrees to perform, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5); or
- (2) fondles, or offers or agrees to fondle, the genitals of another person;

for money or other property commits prostitution, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has two (2) prior convictions under this section.

(b) It is a defense to a prosecution under this section that the person was:

- (1) a child (as defined in IC 35-47-10-3); and
- (2) a victim or an alleged victim of an offense under IC 35-42-3.5-1;

at the time the person engaged in the prohibited conduct.

As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.77; Acts 1979, P.L.301, SEC.1; P.L.310-1983, SEC.3;

P.L.158-2013, SEC.526; P.L.23-2015, SEC.4.

IC 35-45-4-3

Patronizing a prostitute

Sec. 3. A person who knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person:

(1) for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the person or with any other person; or

(2) for having fondled, or on the understanding that the other person will fondle, the genitals of the person or any other person;

commits patronizing a prostitute, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has two (2) prior convictions under this section.

As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.78; Acts 1979, P.L.301, SEC.2; P.L.310-1983, SEC.4; P.L.158-2013, SEC.527.

IC 35-45-4-4

Promoting prostitution

Sec. 4. A person who:

(1) knowingly or intentionally entices or compels another person to become a prostitute;

(2) knowingly or intentionally procures, or offers or agrees to procure, a person for another person for the purpose of prostitution;

(3) having control over the use of a place, knowingly or intentionally permits another person to use the place for prostitution;

(4) receives money or other property from a prostitute, without lawful consideration, knowing it was earned in whole or in part from prostitution; or

(5) knowingly or intentionally conducts or directs another person to a place for the purpose of prostitution;

commits promoting prostitution, a Level 5 felony. However, the offense is a Level 4 felony under subdivision (1) if the person enticed or compelled is under eighteen (18) years of age.

As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.79; Acts 1978, P.L.148, SEC.6; P.L.158-2013, SEC.528.

IC 35-45-4-5

Voyeurism; public voyeurism

Sec. 5. (a) The following definitions apply throughout this section:

(1) "Camera" means a camera, a video camera, a device that captures a digital image, or any other type of video recording device.

(2) "Peep" means any looking of a clandestine, surreptitious, prying, or secretive nature.

(3) "Private area" means the naked or undergarment clad genitals, pubic area, or buttocks of an individual.

(b) A person:

(1) who knowingly or intentionally:

(A) peeps; or

(B) goes upon the land of another with the intent to peep; into an occupied dwelling of another person; or

(2) who knowingly or intentionally peeps into an area where an occupant of the area reasonably can be expected to disrobe, including:

(A) restrooms;

(B) baths;

(C) showers; and

(D) dressing rooms;

without the consent of the other person, commits voyeurism, a Class B misdemeanor.

(c) However, the offense under subsection (b) is a Level 6 felony if:

(1) it is knowingly or intentionally committed by means of a camera; or

(2) the person who commits the offense has a prior unrelated conviction:

(A) under this section; or

(B) in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section.

(d) A person who:

(1) without the consent of the individual; and

(2) with intent to peep at the private area of an individual;

peeps at the private area of an individual and records an image by means of a camera commits public voyeurism, a Class A misdemeanor.

(e) The offense under subsection (d) is a Level 6 felony if the person has a prior unrelated conviction under this section or in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section, or if the person:

(1) publishes the image;

(2) makes the image available on the Internet; or

(3) transmits or disseminates the image to another person.

(f) It is a defense to a prosecution under subsection (d) that the individual deliberately exposed the individual's private area.

As added by P.L.311-1983, SEC.31. Amended by P.L.301-1995, SEC.1; P.L.215-1997, SEC.2; P.L.7-2005, SEC.1; P.L.75-2011, SEC.1; P.L.158-2013, SEC.529.

IC 35-45-4-6

Indecent display by a youth

Sec. 6. (a) This section applies only to a person to whom all of the following apply:

- (1) The person is less than eighteen (18) years of age.
- (2) The person is not more than four (4) years older than the individual who is depicted in the image or who received the image.
- (3) The relationship between the person and the individual who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.
- (4) The individual receiving the image or who is depicted in the image acquiesced in the person's conduct.

(b) The following definitions apply throughout this section:

- (1) "Disseminate" means to transfer possession for no direct or indirect consideration.
- (2) "Matter" has the meaning set forth in IC 35-49-1-3.
- (3) "Performance" has the meaning set forth in IC 35-49-1-7.
- (4) "Sexual conduct" means sexual intercourse, other sexual conduct, exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or other sexual conduct with an animal, or any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

(c) A person who, on or by means of a cellular telephone, social media web site, or another wireless or cellular communications device, knowingly or intentionally:

- (1) produces, presents, exhibits, photographs, records, or creates a digitized image of any performance or incident that includes sexual conduct by a child at least twelve (12) years of age;
- (2) disseminates, exhibits to another person, or offers to disseminate or exhibit to another person, matter that depicts or describes sexual conduct by a child at least twelve (12) years of age; or
- (3) possesses:
 - (A) a picture;
 - (B) a drawing;
 - (C) a photograph;
 - (D) a motion picture;
 - (E) a digitized image; or
 - (F) any pictorial representation;

that depicts or describes sexual conduct by a child at least twelve (12) years of age who the person knows is less than sixteen (16) years of age or who appears to be less than sixteen (16) years of age, and that lacks serious literary, artistic, political, or scientific value;

commits indecent display by a youth, a Class A misdemeanor.

(d) Subsection (c) does not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of that school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.

As added by P.L.168-2014, SEC.83.