

IC 35-42-2 Chapter 2. Battery and Related Offenses

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IC 35-42-2-0.1 Repealed

As added by P.L.220-2011, SEC.593. Repealed by P.L.63-2012, SEC.47.

IC 35-42-2-0.5 "Relative"

Sec. 0.5. "Relative", for purposes of IC 35-42-2-1, has the meaning set forth in IC 35-42-2-1(b).

As added by P.L.65-2016, SEC.32.

IC 35-42-2-1 Battery

Sec. 1. (a) As used in this section, "public safety official" means:

- (1) a law enforcement officer, including an alcoholic beverage enforcement officer;
- (2) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71);
- (3) an employee of the department of correction;
- (4) a probation officer;
- (5) a parole officer;
- (6) a community corrections worker;
- (7) a home detention officer;
- (8) a department of child services employee;
- (9) a firefighter;
- (10) an emergency medical services provider; or
- (11) a judicial officer.

(b) As used in this section, "relative" means an individual related by blood, half-blood, adoption, marriage, or remarriage, including:

- (1) a spouse;
- (2) a parent or stepparent;
- (3) a child or stepchild;
- (4) a grandchild or stepgrandchild;
- (5) a grandparent or stepgrandparent;
- (6) a brother, sister, stepbrother, or stepsister;
- (7) a niece or nephew;
- (8) an aunt or uncle;
- (9) a daughter-in-law or son-in-law;
- (10) a mother-in-law or father-in-law; or
- (11) a first cousin.

(c) Except as provided in subsections (d) through (k), a person who knowingly or intentionally:

- (1) touches another person in a rude, insolent, or angry manner; or
- (2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person;

commits battery, a Class B misdemeanor.

(d) The offense described in subsection (c)(1) or (c)(2) is a Class A misdemeanor if it:

- (1) results in bodily injury to any other person; or
- (2) is committed against a member of a foster family home (as defined in IC 35-31.5-2-139.3) by a person who is not a resident of the foster family home if the person who committed the offense is a relative of a person who lived in the foster family home at the time of the offense.

(e) The offense described in subsection (c)(1) or (c)(2) is a Level 6 felony if one (1) or more of the following apply:

- (1) The offense results in moderate bodily injury to any other person.
- (2) The offense is committed against a public safety official while the official is engaged in the official's official duty.
- (3) The offense is committed against a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.
- (4) The offense is committed against a person of any age who has a mental or physical disability and is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.
- (5) The offense is committed against an endangered adult (as defined in IC 12-10-3-2).
- (6) The offense:

(A) is committed against a member of a foster family home (as defined in IC 35-31.5-2-139.3) by a person who is not a resident of the foster family home if the person who committed the offense is a relative of a person who lived in the foster family home at the time of the offense; and

(B) results in bodily injury to the member of the foster family.

(f) The offense described in subsection (c)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus.

(g) The offense described in subsection (c)(1) or (c)(2) is a Level 5 felony if one (1) or more of the following apply:

- (1) The offense results in serious bodily injury to another person.
- (2) The offense is committed with a deadly weapon.
- (3) The offense results in bodily injury to a pregnant woman if the person knew of the pregnancy.
- (4) The person has a previous conviction for a battery offense:
 - (A) included in this chapter against the same victim; or
 - (B) against the same victim in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a battery offense included in this chapter.
- (5) The offense results in bodily injury to one (1) or more of the following:
 - (A) A public safety official while the official is engaged in the official's official duties.
 - (B) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.
 - (C) A person who has a mental or physical disability if the offense is committed by an individual having care of the person with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.
 - (D) An endangered adult (as defined in IC 12-10-3-2).

(h) The offense described in subsection (c)(2) is a Level 5 felony if:

- (1) the person knew or recklessly failed to know that the bodily fluid or waste placed

on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus; and

(2) the person placed the bodily fluid or waste on a public safety official.

(i) The offense described in subsection (c)(1) or (c)(2) is a Level 4 felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2).

(j) The offense described in subsection (c)(1) or (c)(2) is a Level 3 felony if it results in serious bodily injury to a person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(k) The offense described in subsection (c)(1) or (c)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) An endangered adult (as defined in IC 12-10-3-2).

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.30; Acts 1979, P.L.298, SEC.1; Acts 1979, P.L.83, SEC.10; Acts 1981, P.L.299, SEC.1; P.L.185-1984, SEC.1; P.L.205-1986, SEC.1; P.L.322-1987, SEC.1; P.L.164-1993, SEC.10; P.L.59-1995, SEC.2; P.L.31-1996, SEC.20; P.L.32-1996, SEC.20; P.L.255-1996, SEC.25; P.L.212-1997, SEC.1; P.L.37-1997, SEC.2; P.L.56-1999, SEC.1; P.L.188-1999, SEC.5; P.L.43-2000, SEC.1; P.L.222-2001, SEC.4; P.L.175-2003, SEC.2; P.L.281-2003, SEC.3; P.L.2-2005, SEC.125; P.L.99-2007, SEC.209; P.L.164-2007, SEC.1; P.L.120-2008, SEC.93; P.L.131-2009, SEC.73; P.L.114-2012, SEC.137; P.L.158-2013, SEC.420; P.L.147-2014, SEC.2; P.L.65-2016, SEC.33.

IC 35-42-2-1.3 Domestic battery

Sec. 1.3. (a) Except as provided in subsections (b) through (f), a person who knowingly or intentionally:

(1) touches a family or household member in a rude, insolent, or angry manner; or

(2) in a rude, insolent, or angry manner places any bodily fluid or waste on a family or household member;

commits domestic battery, a Class A misdemeanor.

(b) The offense under subsection (a)(1) or (a)(2) is a Level 6 felony if one (1) or more of the following apply:

(1) The person who committed the offense has a previous, unrelated conviction:

(A) for a battery offense included in this chapter; or

(B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a battery offense included in this chapter.

(2) The person who committed the offense is at least eighteen (18) years of age and committed the offense against a family or household member in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(3) The offense results in moderate bodily injury to a family or household member.

(4) The offense is committed against a family or household member who is less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

(5) The offense is committed against a family or household member of any age who has a mental or physical disability and is committed by a person having the care of the family or household member with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(6) The offense is committed against a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(c) The offense described in subsection (a)(1) or (a)(2) is a Level 5 felony if one (1) or more of the following apply:

- (1) The offense results in serious bodily injury to a family or household member.
- (2) The offense is committed with a deadly weapon against a family or household member.
- (3) The offense results in bodily injury to a pregnant family or household member if the person knew of the pregnancy.
- (4) The person has a previous conviction for a battery offense:
 - (A) included in this chapter against the same family or household member; or
 - (B) against the same family or household member in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a battery offense included in this chapter.
- (5) The offense results in bodily injury to one (1) or more of the following:
 - (A) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.
 - (B) A family or household member who has a mental or physical disability if the offense is committed by an individual having care of the family or household member with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.
 - (C) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(d) The offense described in subsection (a)(1) or (a)(2) is a Level 4 felony if it results in serious bodily injury to a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(e) The offense described in subsection (a)(1) or (a)(2) is a Level 3 felony if it results in serious bodily injury to a family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(f) The offense described in subsection (a)(1) or (a)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

- (1) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.
- (2) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

As added by P.L.188-1999, SEC.6. Amended by P.L.47-2000, SEC.3; P.L.221-2003, SEC.18; P.L.129-2006, SEC.1; P.L.6-2012, SEC.225; P.L.158-2013, SEC.421; P.L.65-2016, SEC.34.

IC 35-42-2-1.5 Aggravated battery

Sec. 1.5. A person who knowingly or intentionally inflicts injury on a person that creates a substantial risk of death or causes:

- (1) serious permanent disfigurement;
- (2) protracted loss or impairment of the function of a bodily member or organ; or
- (3) the loss of a fetus;

commits aggravated battery, a Level 3 felony. However, the offense is a Level 1 felony if it results in the death of a child less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

As added by P.L.213-1991, SEC.2. Amended by P.L.261-1997, SEC.6; P.L.158-2013, SEC.422.

IC 35-42-2-2 Criminal recklessness; element of hazing; liability barred for good faith report or judicial participation

Sec. 2. (a) A person who recklessly, knowingly, or intentionally performs an act that creates a substantial risk of bodily injury to another person commits criminal recklessness. Except as provided in subsection (b), criminal recklessness is a Class B misdemeanor.

- (b) The offense of criminal recklessness as defined in subsection (a) is:
- (1) a Level 6 felony if:
 - (A) it is committed while armed with a deadly weapon; or
 - (B) the person committed aggressive driving (as defined in IC 9-21-8-55) that results in serious bodily injury to another person; or
 - (2) a Level 5 felony if:
 - (A) it is committed by shooting a firearm into an inhabited dwelling or other building or place where people are likely to gather; or
 - (B) the person committed aggressive driving (as defined in IC 9-21-8-55) that results in the death of another person.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.31; Acts 1981, P.L.300, SEC.1; P.L.323-1987, SEC.1; P.L.216-1996, SEC.17; P.L.1-2003, SEC.94; P.L.75-2006, SEC.3; P.L.158-2013, SEC.423.

IC 35-42-2-2.5 Hazing; good faith reporting

Sec. 2.5. (a) As used in this section, "hazing" means forcing or requiring another person:

- (1) with or without the consent of the other person; and
- (2) as a condition of association with a group or organization;

to perform an act that creates a substantial risk of bodily injury.

(b) A person who knowingly or intentionally performs hazing commits a Class B misdemeanor. However, the offense is a Level 6 felony if it results in serious bodily injury to another person, and a Level 5 felony if it is committed by means of a deadly weapon.

(c) A person, other than a person who has committed an offense under this section or a delinquent act that would be an offense under this section if the violator were an adult, who:

- (1) makes a report of hazing in good faith;
- (2) participates in good faith in a judicial proceeding resulting from a report of hazing;
- (3) employs a reporting or participating person described in subdivision (1) or (2); or
- (4) supervises a reporting or participating person described in subdivision (1) or (2);

is not liable for civil damages or criminal penalties that might otherwise be imposed because of the report or participation.

(d) A person described in subsection (c)(1) or (c)(2) is presumed to act in good faith.

(e) A person described in subsection (c)(1) or (c)(2) may not be treated as acting in bad faith solely because the person did not have probable cause to believe that a person committed:

- (1) an offense under this section; or
- (2) a delinquent act that would be an offense under this section if the offender were an adult.

As added by P.L.158-2013, SEC.424.

IC 35-42-2-3 Provocation

Sec. 3. A person who recklessly, knowingly, or intentionally engages in conduct that is likely to provoke a reasonable person to commit battery commits provocation, a Class C infraction.

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.32; P.L.158-2013, SEC.425.

IC 35-42-2-4 Repealed

As added by P.L.92-1988, SEC.7. Repealed by P.L.158-2013, SEC.426.

IC 35-42-2-5 Overpass mischief

Sec. 5. (a) As used in this section, "overpass" means a bridge or other structure designed to carry vehicular or pedestrian traffic over any roadway, railroad track, or waterway.

(b) A person who knowingly, intentionally, or recklessly:

- (1) drops, causes to drop, or throws an object from an overpass; or
- (2) with intent that the object fall, places on an overpass an object that falls off the overpass;

causing bodily injury to another person commits overpass mischief, a Level 5 felony. However, the offense is a Level 4 felony if it results in serious bodily injury to another person.

As added by P.L.297-1995, SEC.1. Amended by P.L.158-2013, SEC.427.

IC 35-42-2-5.5 Repealed

As added by P.L.259-1999, SEC.2. Repealed by P.L.158-2013, SEC.428.

IC 35-42-2-6 Repealed

As added by P.L.298-1995, SEC.1. Amended by P.L.88-2002, SEC.1; P.L.85-2004, SEC.53; P.L.178-2007, SEC.3; P.L.131-2009, SEC.74; P.L.77-2012, SEC.62. Repealed by P.L.158-2013, SEC.429.

IC 35-42-2-7 Repealed

As added by P.L.181-1997, SEC.3. Amended by P.L.166-1999, SEC.2. Repealed by P.L.158-2013, SEC.430.

IC 35-42-2-8 Repealed

As added by P.L.154-2001, SEC.1. Repealed by P.L.158-2013, SEC.431.

IC 35-42-2-9 Strangulation

Sec. 9. (a) This section does not apply to a medical procedure.

(b) As used in this section, "torso" means any part of the upper body from the collarbone to the hips.

(c) A person who, in a rude, angry, or insolent manner, knowingly or intentionally:

- (1) applies pressure to the throat or neck of another person;
- (2) obstructs the nose or mouth of the another person; or
- (3) applies pressure to the torso of another person;

in a manner that impedes the normal breathing or the blood circulation of the other person commits strangulation, a Level 6 felony.

(d) However, the offense under subsection (c) is a Level 5 felony if:

- (1) the offense is committed against a pregnant woman; and
- (2) the person who committed the offense knew the victim was pregnant at the time of the offense.

As added by P.L.129-2006, SEC.2. Amended by P.L.158-2013, SEC.432; P.L.252-2017, SEC.11.