

Relevant Domestic Violence Statutes

Selected Statutes

1. **Battery.** I.C. 35-42-2-1. The crime of Battery is defined as knowingly or intentionally touching someone in a rude, insolent, or angry manner, and is a Class B misdemeanor.

If the battery results in bodily injury to another person, it is a Class A misdemeanor. (“Bodily injury” does include physical pain).

If the battery involving bodily injury is committed by an adult against a child less than 14 years of age, it is a Class D felony. If the battery against the child causes serious bodily injury, it is a Class B felony.

Battery with injury committed by a person who has been previously convicted of battery against the same victim is a Class D felony.

Battery resulting in serious bodily injury, or committed with a deadly weapon, is a Class C felony.

2. **Domestic Battery.** I.C. 35-42-2-1.3. A person who commits battery involving bodily injury against a person who is or was a spouse of the offender, who is or was living as if a spouse of the offender, or has a child in common with the offender, commits Domestic Battery, a Class A misdemeanor.

A person who commits the crime of Domestic Battery and has a prior conviction for that crime (or “domestic violence” under IC 35-42-2-1 (a) (2) before its repeal), commits a Class D felony.

3. **Aggravated Battery.** I.C. 35-42-2-1.5. A person who commits the crime of battery resulting in a substantial risk of death or cause serious permanent disfigurement or impairment of a bodily function or loss of a fetus, commits Aggravated Battery, a Class B felony.

4. **Invasion of Privacy.** I.C. 35-46-1-15.1. A person who knowingly or intentionally violates a protective order, no contact order, workplace violence restraining order, or a similar order issued by a court of another state or Indian tribe, commits the crime of Invasion of Privacy, a Class A misdemeanor.

If the person has prior unrelated conviction for Invasion of Privacy, the crime is a Class D felony.

5. **Criminal Trespass.** I.C. 35-43-2-2. A person who, without any contractual interest in a property, enters the property or dwelling without permission and who

refuses to leave when asked, or who interferes with a person's possession or use of property, commits the crime of Criminal Trespass, a Class A misdemeanor.

6. Intimidation. I.C. 35-45-2-1. A person who threatens another person with the intent of placing the other person in fear of retaliation for a prior lawful act, commits the crime of Intimidation, a Class A misdemeanor.

If the intimidation involves a witness (or spouse of child of a witness) in any pending criminal case against the person making the threat, it is a Class D felony. If the intimidation is committed while using a deadly weapon, it is a Class C felony.

7. Harassment. I.C. 35-45-2-2. A person who makes a telephone call, sends email, or otherwise communicates with a person with the intent of harassing, annoying, or alarming that person, commits the crime of Harassment, a Class B misdemeanor.

8. Stalking. I.C. 35-45-10-5. The crime of Stalking is defined by law as any repeated or continuing harassment causing the victim to feel terrorized, frightened, intimidated, or threatened, and is a Class D felony.

If the act of stalking involves a threat placing the victim in fear of sexual battery, serious bodily injury or death; is in disregard of a protection order issued in Indiana or by another state or tribal court; or occurs while a criminal case of stalking against the same victim is pending in court, the crime is a Class C felony.

If the act of stalking occurs while the offender is armed with a deadly weapon, or if the offender has a previous conviction of stalking the same victim, the crime is a Class B felony.

9. Kidnapping. I.C. 35-42-3-2. The crime of Kidnapping is defined as the confinement or removing of another person by fraud, enticement, force, or threat of force from one place to another with the intent to obtain ransom, while hijacking a vehicle, or with the intent of using the person as a hostage or shield, and is a Class A felony.

10. Criminal Confinement. I.C. 35-42-3-3. The crime of Criminal Confinement is defined as substantially interfering with the liberty of another, or removing a person from one place to another, without their consent, and is a Class D felony.

If the confinement involves a child less than 14 years of age and who is not the child of the offender, it is a Class C felony.

If the confinement is committed while armed with a deadly weapon or results in serious bodily injury to another person, it is a Class B felony.

11. Interference with Custody. I.C. 35-42-3-4. The crime of Interference with Custody is defined as a taking or detaining and concealing a child less than 18 years of age in order to deprive another person of custody or visitation rights, and is a Class C misdemeanor.

If the taking or detaining and concealing of a child is in violation of a court order, it is a Class B misdemeanor.

If the person removes a child less than 18 years of age to a place outside of Indiana in violation of a court's custody order, the crime is a Class D felony.

The violation of a custody order involving a child less than 14 years of age who is not the child of the offender is a Class C felony.

If the violation of a custody order by taking a child out of state is committed while the offender is armed with a deadly or it results in serious bodily injury to the child, the crime is a Class B felony.

12. Rape. I.C. 35-42-4-1. The crime of Rape is defined as having sexual intercourse with a person of the opposite sex by force, threat of force, or without the other person's consent, as when they are unaware of mentally disabled, and is a Class B felony.

If the crime of Rape is committed while armed with, or by threatened use of, a deadly weapon, or results in serious bodily injury, or is facilitated by furnishing a drug without the victim's knowledge, it is a Class A felony.

13. Interference with Reporting of a Crime. I.C. 35-45-2-5. A person who, with the intent to commit, conceal, or aid in the commission of a crime, knowingly or intentionally interferes with or prevents an individual from:

- (1) using a 911 emergency telephone system;
- (2) obtaining medical assistance; or
- (3) making a report to a law enforcement officer;

commits interference with the reporting of a crime, a Class A misdemeanor.

14. Penalties:

Class C misdemeanor: Fine up to \$500 and up to 60 days in jail.

Class B misdemeanor: Fine up to \$1000 and up to 180 days in jail.

Class A misdemeanor: Fine up to \$5000 and up to 365 days in jail.

Class D felony: Fine up to \$10,000 and 6 months-3 years in jail/prison.

Class C felony: Fine up to \$10,000 and 2-8 years in jail/prison.

Class B felony: Fine up to \$10,000 and 6-20 years in jail/prison.

Class A felony: Fine up to \$10,000 and 20-50 years in jail/prison.

15. **Warrantless Arrest for Domestic Battery and Battery.** I.C. 35-33-1-1(a)(5). Law enforcement officers in Indiana, given probable cause, can make an on-scene, warrantless arrest for the misdemeanor crimes of Battery resulting in bodily injury, or Domestic Battery. Under Indiana law, victims are **not** required to sign any type of affidavit in order for an arrest to be made.

16. **Warrantless arrest for Invasion of Privacy.** I.C. 35-33-1-1(a)(6). Given probable cause, law enforcement officers may make an arrest for Invasion of Privacy. A officer does not have to witness the suspect violating the protection order in order for an arrest to occur.

17. **Probable cause.** The term “probable cause” simply means having more evidence for than against.

18. **Duties of Law Enforcement Officers.** I.C. 35-33-1-1.5(a). When responding to DV scene, law enforcement officers...”shall use all reasonable means necessary to prevent further violence.” Officers must:

- Transport or obtain transportation for victim/children to a designated safe place to meet with a domestic violence counselor, local family member, or friend.
- Assist victim in removing toiletries, medication and clothing.
- Give victim immediate and written notice of the Victim Rights under IC 35-40.

Officer may confiscate and remove a firearm, ammunition or deadly weapon if the officer has:

- Probable cause that a crime of domestic or family violence has occurred;
- Reasonable belief that the weapon exposes victim to immediate risk of serious bodily injury or was used in the commission of the crime; and
- Observed firearm, ammunition, or deadly weapon at the scene during the response.

19. **Victim Rights.** I.C. 35-40. Officers responding to domestic violence scene are required to provide a victim with a written notice of their statutory rights. This information is also available on ICADV’s website in English or Spanish.

Click here for more information. <http://www.violenceresource.org/victimrights.doc>