



April 1, 2005

**ENGROSSED
SENATE BILL No. 233**

DIGEST OF SB 233 (Updated March 30, 2005 3:53 pm - DI 69)

Citations Affected: IC 35-42; IC 35-45; noncode.

Synopsis: Child solicitation, intimidation, and panhandling. Provides that a person at least 21 years of age commits the crime of soliciting a child if the person solicits a child at least 14 but less than 16 years of age. (Does not change current law that a person at least 18 years of age commits the crime of soliciting a child if the person solicits a child under 14 years of age). Makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom the threat is communicated is an employee of a court or probation department. Makes it a Class C misdemeanor for a person to panhandle at certain times, in certain locations, or while engaging in certain activities.

Effective: July 1, 2005.

Drozda

(HOUSE SPONSORS — ULMER, FOLEY, SMITH J)

January 4, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

February 10, 2005, amended, reported favorably — Do Pass.

February 14, 2005, read second time, ordered engrossed.

February 15, 2005, engrossed. Read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Courts and Criminal Code.

March 31, 2005, amended, reported — Do Pass.

**C
o
p
y**



April 1, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 233

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 35-42-4-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this
3 section, "solicit" means to command, authorize, urge, incite, request,
4 or advise an individual:
5 (1) in person;
6 (2) by telephone;
7 (3) in writing;
8 (4) by using a computer network (as defined in IC 35-43-2-3(a));
9 (5) by advertisement of any kind; or
10 (6) by any other means;
11 to perform an act described in subsection (b) **or** (c).
12 (b) A person eighteen (18) years of age or older who knowingly or
13 intentionally solicits a child under fourteen (14) years of age, or an
14 individual the person believes to be a child under fourteen (14) years
15 of age, to engage in:
16 (1) sexual intercourse;
17 (2) deviate sexual conduct; or

ES 233—LS 6518/DI 107+



C
O
P
Y

1 (3) any fondling or touching intended to arouse or satisfy the
2 sexual desires of either the child or the older person;
3 commits child solicitation, a Class D felony. However, the offense is
4 a Class C felony if it is committed by using a computer network (as
5 defined in IC 35-43-2-3(a)).

6 (c) **A person at least twenty-one (21) years of age who knowingly
7 or intentionally solicits a child at least fourteen (14) years of age
8 but less than sixteen (16) years of age, or an individual the person
9 believes to be a child at least fourteen (14) years of age but less
10 than sixteen (16) years of age, to engage in:**

- 11 (1) **sexual intercourse;**
- 12 (2) **deviate sexual conduct; or**
- 13 (3) **any fondling or touching intended to arouse or satisfy the
14 sexual desires of either the child or the older person;
15 commits child solicitation, a Class D felony. However, the offense
16 is a Class C felony if it is committed by using a computer network
17 (as defined in IC 35-43-2-3(a)).**

18 ~~(c)~~ (d) In a prosecution under this section, including a prosecution
19 for attempted solicitation, the state is not required to prove that the
20 person solicited the child to engage in an act described in subsection
21 (b) or (c) at some immediate time.

22 SECTION 2. IC 35-45-2-1 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who
24 communicates a threat to another person, with the intent:

- 25 (1) that the other person engage in conduct against the other
26 person's will;
- 27 (2) that the other person be placed in fear of retaliation for a prior
28 lawful act; or
- 29 (3) of causing:
 - 30 (A) a dwelling, a building, or another structure; or
 - 31 (B) a vehicle;

32 to be evacuated;
33 commits intimidation, a Class A misdemeanor.

- 34 (b) However, the offense is a:
 - 35 (1) Class D felony if:
 - 36 (A) the threat is to commit a forcible felony;
 - 37 (B) the person to whom the threat is communicated:
 - 38 (i) is a law enforcement officer;
 - 39 (ii) is a judge or bailiff of any court;
 - 40 (iii) is a witness (or the spouse or child of a witness) in any
41 pending criminal proceeding against the person making the
42 threat;

C
O
P
Y



- 1 (iv) is an employee of a school corporation; or
- 2 (v) is a community policing volunteer;
- 3 **(vi) is an employee of a court; or**
- 4 **(vii) is an employee of a probation department;**
- 5 (C) the person has a prior unrelated conviction for an offense
- 6 under this section concerning the same victim; or
- 7 (D) the threat is communicated using property, including
- 8 electronic equipment or systems, of a school corporation or
- 9 other governmental entity; and
- 10 (2) Class C felony if, while committing it, the person draws or
- 11 uses a deadly weapon.
- 12 (c) "Threat" means an expression, by words or action, of an
- 13 intention to:
 - 14 (1) unlawfully injure the person threatened or another person, or
 - 15 damage property;
 - 16 (2) unlawfully subject a person to physical confinement or
 - 17 restraint;
 - 18 (3) commit a crime;
 - 19 (4) unlawfully withhold official action, or cause such withholding;
 - 20 (5) unlawfully withhold testimony or information with respect to
 - 21 another person's legal claim or defense, except for a reasonable
 - 22 claim for witness fees or expenses;
 - 23 (6) expose the person threatened to hatred, contempt, disgrace, or
 - 24 ridicule;
 - 25 (7) falsely harm the credit or business reputation of the person
 - 26 threatened; or
 - 27 (8) cause the evacuation of a dwelling, a building, another
 - 28 structure, or a vehicle.

29 SECTION 3. IC 35-45-17 IS ADDED TO THE INDIANA CODE
 30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2005]:

32 **Chapter 17. Panhandling**

33 **Sec. 1. (a) As used in this chapter, "panhandling" means to**
 34 **solicit an individual:**

- 35 (1) on a street or in another public place; and
- 36 (2) by requesting an immediate donation of money or
- 37 something else of value.

38 **(b) The term includes soliciting an individual:**

- 39 (1) by making an oral request;
- 40 (2) in exchange for:
 - 41 (A) performing music;
 - 42 (B) singing; or

C
O
P
Y



- 1 (C) engaging in another type of performance; or
- 2 (3) by offering the individual an item of little or no monetary
- 3 value in exchange for money or another gratuity under
- 4 circumstances that would cause a reasonable individual to
- 5 understand that the transaction is only a donation.
- 6 (c) The term does not include an act of passively standing,
- 7 sitting, performing music, singing, or engaging in another type of
- 8 performance:
- 9 (1) while displaying a sign or other indication that a donation
- 10 is being sought; and
- 11 (2) without making an oral request other than in response to
- 12 an inquiry by another person.
- 13 **Sec. 2. A person who knowingly or intentionally does any of the**
- 14 **following commits panhandling, a Class C misdemeanor:**
- 15 (1) Panhandling after sunset and before sunrise.
- 16 (2) Panhandling when the individual being solicited is:
- 17 (A) at a bus stop;
- 18 (B) in a:
- 19 (i) vehicle; or
- 20 (ii) facility;
- 21 used for public transportation;
- 22 (C) in a motor vehicle that is parked or stopped on a public
- 23 street or alley, unless the person soliciting the individual
- 24 has the approval to do so by a unit of local government
- 25 that has jurisdiction over the public street or alley;
- 26 (D) in the sidewalk dining area of a restaurant; or
- 27 (E) within twenty (20) feet of:
- 28 (i) an automatic teller machine; or
- 29 (ii) the entrance to a bank.
- 30 (3) Panhandling while touching the individual being solicited
- 31 without the solicited individual's consent.
- 32 (4) Panhandling while the individual being solicited is
- 33 standing in line and waiting to be admitted to a commercial
- 34 establishment.
- 35 (5) Panhandling while blocking:
- 36 (A) the path of the individual being solicited; or
- 37 (B) the entrance to a building or motor vehicle.
- 38 (6) Panhandling while using profane or abusive language:
- 39 (A) during a solicitation; or
- 40 (B) after the individual being solicited has declined to
- 41 donate money or something else of value.
- 42 (7) Panhandling while making a statement, a gesture, or

COPY



1 **another communication to the individual being solicited that**
2 **would cause a reasonable individual to:**
3 **(A) fear for the individual's safety; or**
4 **(B) feel compelled to donate.**
5 **(8) Panhandling with at least one (1) other individual.**
6 **(9) Panhandling and then following or accompanying the**
7 **solicited individual without the solicited individual's consent**
8 **after the solicited individual has declined to donate money or**
9 **something else of value.**
10 **SECTION 4. [EFFECTIVE JULY 1, 2005] IC 35-42-4-6 and**
11 **IC 35-45-2-1, both as amended by this act, and IC 35-45-17-2, as**
12 **added by this act, apply only to offenses committed after June 30,**
13 **2005.**

C
O
P
Y



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 233, 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 11, delete "(b)." insert "(b) or (c).".

Page 1, line 13, reset in roman "fourteen (14)".

Page 1, line 13, delete "sixteen (16)".

Page 1, line 14, reset in roman "fourteen".

Page 1, line 15, reset in roman "(14)".

Page 1, line 15, delete "sixteen (16)".

Page 2, between lines 5 and 6, begin a new paragraph and insert:

"(c) A person at least twenty-one (21) years of age who knowingly or intentionally solicits a child at least fourteen (14) years of age but less than sixteen (16) years of age, or an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age, to engage in:

(1) sexual intercourse;

(2) deviate sexual conduct; or

(3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a))."

Page 2, line 6, strike "(c)" and insert "(d)".

Page 2, line 8, after "(b)" insert "or (c)".

and when so amended that said bill do pass.

(Reference is to SB 233 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

C
O
P
Y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 233, 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 2, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 2. IC 35-45-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who communicates a threat to another person, with the intent:

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

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

- (1) Class D felony if:
 - (A) the threat is to commit a forcible felony;
 - (B) the person to whom the threat is communicated:
 - (i) is a law enforcement officer;
 - (ii) is a judge or bailiff of any court;
 - (iii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;
 - (iv) is an employee of a school corporation; or
 - (v) is a community policing volunteer;
 - (vi) is an employee of a court; or**
 - (vii) is an employee of a probation department;**
 - (C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or
 - (D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

(2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(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;

C
O
P
Y



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

SECTION 3. IC 35-45-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 17. Panhandling

Sec. 1. (a) As used in this chapter, "panhandling" means to solicit an individual:

- (1) on a street or in another public place; and
- (2) by requesting an immediate donation of money or something else of value.

(b) The term includes soliciting an individual:

- (1) by making an oral request;
- (2) in exchange for:
 - (A) performing music;
 - (B) singing; or
 - (C) engaging in another type of performance; or
- (3) by offering the individual an item of little or no monetary value in exchange for money or another gratuity under circumstances that would cause a reasonable individual to understand that the transaction is only a donation.

(c) The term does not include an act of passively standing, sitting, performing music, singing, or engaging in another type of performance:

- (1) while displaying a sign or other indication that a donation is being sought; and
- (2) without making an oral request other than in response to an inquiry by another person.

Sec. 2. A person who knowingly or intentionally does any of the following commits panhandling, a Class C misdemeanor:

- (1) Panhandling after sunset and before sunrise.

**C
O
P
Y**



- (2) Panhandling when the individual being solicited is:**
 - (A) at a bus stop;**
 - (B) in a:**
 - (i) vehicle; or**
 - (ii) facility;****used for public transportation;**
 - (C) in a motor vehicle that is parked or stopped on a public street or alley, unless the person soliciting the individual has the approval to do so by a unit of local government that has jurisdiction over the public street or alley;**
 - (D) in the sidewalk dining area of a restaurant; or**
 - (E) within twenty (20) feet of:**
 - (i) an automatic teller machine; or**
 - (ii) the entrance to a bank.**
- (3) Panhandling while touching the individual being solicited without the solicited individual's consent.**
- (4) Panhandling while the individual being solicited is standing in line and waiting to be admitted to a commercial establishment.**
- (5) Panhandling while blocking:**
 - (A) the path of the individual being solicited; or**
 - (B) the entrance to a building or motor vehicle.**
- (6) Panhandling while using profane or abusive language:**
 - (A) during a solicitation; or**
 - (B) after the individual being solicited has declined to donate money or something else of value.**
- (7) Panhandling while making a statement, a gesture, or another communication to the individual being solicited that would cause a reasonable individual to:**
 - (A) fear for the individual's safety; or**
 - (B) feel compelled to donate.**
- (8) Panhandling with at least one (1) other individual.**
- (9) Panhandling and then following or accompanying the solicited individual without the solicited individual's consent after the solicited individual has declined to donate money or something else of value."**

**C
O
P
Y**

Page 2, line 22, delete "," and insert "**and IC 35-45-2-1, both**".

Page 2, line 23, delete "applies" and insert "**and IC 35-45-17-2, as added by this act, apply only**".



Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 233 as printed February 11, 2005.)

ULMER, Chair

Committee Vote: yeas 10, nays 0.

**C
o
p
y**

