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# HOUSE BILL No. 1387

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2; IC 34-6-2-34.5; IC 35-41-1-6.5; IC 35-46-3.

**Synopsis:** Animal cruelty. Specifies that the definition of "crime involving domestic or family violence" includes certain crimes involving animal cruelty used to threaten, intimidate, coerce, harass, or terrorize a family or household member. Defines certain terms used in the animal cruelty statute. Permits a court to prohibit or impose conditions on the right of a person convicted of certain animal cruelty offenses to possess an animal. Makes killing an animal with the intent used to threaten, intimidate, coerce, harass, or terrorize a family or household member a Class D felony, and makes sexual intercourse or deviate sexual conduct with an animal a Class A misdemeanor or Class D felony.

**Effective:** July 1, 2007.

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**Lawson L, Bardon, Neese, Denbo**

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January 16, 2007, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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## HOUSE BILL No. 1387

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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 31-9-2-29.5, AS AMENDED BY P.L.173-2006,  
2 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2007]: Sec. 29.5. "Crime involving domestic or family  
4 violence" means a crime that occurs when a family or household  
5 member commits, attempts to commit, or conspires to commit any of  
6 the following against another family or household member:  
7 (1) A homicide offense under IC 35-42-1.  
8 (2) A battery offense under IC 35-42-2.  
9 (3) Kidnapping or confinement under IC 35-42-3.  
10 (4) A sex offense under IC 35-42-4.  
11 (5) Robbery under IC 35-42-5.  
12 (6) Arson or mischief under IC 35-43-1.  
13 (7) Burglary or trespass under IC 35-43-2.  
14 (8) Disorderly conduct under IC 35-45-1.  
15 (9) Intimidation or harassment under IC 35-45-2.  
16 (10) Voyeurism under IC 35-45-4.  
17 (11) Stalking under IC 35-45-10.



1 (12) An offense against the family under IC 35-46-1-2 through  
2 IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.

3 (13) Human and sexual trafficking crimes under IC 35-42-3.5.

4 **(14) A crime involving animal cruelty and a family or**  
5 **household member under IC 35-46-3-12(b)(3) or**  
6 **IC 35-46-3-12.5.**

7 SECTION 2. IC 31-9-2-42 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 42. "Domestic or  
9 family violence" means, except for an act of self defense, the  
10 occurrence of one (1) or more of the following acts committed by a  
11 family or household member:

12 (1) Attempting to cause, threatening to cause, or causing physical  
13 harm to another family or household member without legal  
14 justification.

15 (2) Placing a family or household member in fear of physical  
16 harm without legal justification.

17 (3) Causing a family or household member to involuntarily  
18 engage in sexual activity by force, threat of force, or duress.

19 **(4) Beating, torturing, mutilating, or killing a vertebrate**  
20 **animal without justification with the intent to threaten,**  
21 **intimidate, coerce, harass, or terrorize a family or household**  
22 **member.**

23 For purposes of IC 22-4-15-1 and IC 34-26-5, domestic or family  
24 violence also includes stalking (as defined in IC 35-45-10-1) or a sex  
25 offense under IC 35-42-4, whether or not the stalking or sex offense is  
26 committed by a family or household member.

27 SECTION 3. IC 34-6-2-34.5 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 34.5. "Domestic or  
29 family violence" means, except for an act of self-defense, the  
30 occurrence of at least one (1) of the following acts committed by a  
31 family or household member:

32 (1) Attempting to cause, threatening to cause, or causing physical  
33 harm to another family or household member.

34 (2) Placing a family or household member in fear of physical  
35 harm.

36 (3) Causing a family or household member to involuntarily  
37 engage in sexual activity by force, threat of force, or duress.

38 **(4) Beating, torturing, mutilating, or killing a vertebrate**  
39 **animal without justification with the intent to threaten,**  
40 **intimidate, coerce, harass, or terrorize a family or household**  
41 **member.**

42 For purposes of IC 34-26-5, domestic and family violence also includes

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1 stalking (as defined in IC 35-45-10-1) or a sex offense under  
2 IC 35-42-4, whether or not the stalking or sex offense is committed by  
3 a family or household member.

4 SECTION 4. IC 35-41-1-6.5, AS AMENDED BY P.L.173-2006,  
5 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2007]: Sec. 6.5. "Crime involving domestic or family  
7 violence" means a crime that occurs when a family or household  
8 member commits, attempts to commit, or conspires to commit any of  
9 the following against another family or household member:

- 10 (1) A homicide offense under IC 35-42-1.
- 11 (2) A battery offense under IC 35-42-2.
- 12 (3) Kidnapping or confinement under IC 35-42-3.
- 13 (4) Human and sexual trafficking crimes under IC 35-42-3.5.
- 14 (5) A sex offense under IC 35-42-4.
- 15 (6) Robbery under IC 35-42-5.
- 16 (7) Arson or mischief under IC 35-43-1.
- 17 (8) Burglary or trespass under IC 35-43-2.
- 18 (9) Disorderly conduct under IC 35-45-1.
- 19 (10) Intimidation or harassment under IC 35-45-2.
- 20 (11) Voyeurism under IC 35-45-4.
- 21 (12) Stalking under IC 35-45-10.
- 22 (13) An offense against family under IC 35-46-1-2 through
- 23 IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
- 24 **(14) A crime involving animal cruelty and a family or**
- 25 **household member under IC 35-46-3-12(b)(3) or**
- 26 **IC 35-46-3-12.5.**

27 SECTION 5. IC 35-46-3-0.5 IS ADDED TO THE INDIANA CODE  
28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
29 1, 2007]: **Sec. 0.5. The following definitions apply throughout this**  
30 **chapter:**

- 31 **(1) "Abandon" means to desert an animal or to leave the**
- 32 **animal permanently in a place without making provision for**
- 33 **adequate long term care of the animal. The term does not**
- 34 **include leaving an animal in a place that is temporarily**
- 35 **vacated for the protection of human life during a disaster.**
- 36 **(2) "Beat" means to unnecessarily or cruelly strike an animal**
- 37 **repeatedly and violently with a hand or an object, or to throw**
- 38 **the animal against an object causing the animal to suffer**
- 39 **severe pain or injury.**
- 40 **(3) "Mutilate" means to wound, injure, maim, or disfigure an**
- 41 **animal by irreparably damaging the animal's body parts or**
- 42 **to render any part of the animal's body useless. The term**

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- 1 includes bodily injury involving:
- 2 (A) serious permanent disfigurement;
- 3 (B) serious temporary disfigurement;
- 4 (C) permanent or protracted loss or impairment of the
- 5 function of a bodily part or organ; or
- 6 (D) a fracture.
- 7 (4) "Neglect" means to:
- 8 (A) endanger an animal's health by failing to provide the
- 9 animal with food or drink; or
- 10 (B) restrain an animal for more than a brief period by the
- 11 use of a rope, chain, or tether that:
- 12 (i) is less than three (3) times the length of the animal;
- 13 (ii) is too heavy to permit the animal to move freely; or
- 14 (iii) causes the animal to choke.
- 15 (5) "Torture" means:
- 16 (A) to inflict an animal with extreme physical pain or
- 17 injury with the intent of increasing or prolonging the
- 18 animal's pain; or
- 19 (B) to administer poison to a cat or dog, or expose a cat or
- 20 dog to a poisonous substance with the intent that the cat or
- 21 dog ingest the substance.

22 SECTION 6. IC 35-46-3-6 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) This section does  
 24 not apply to a violation of section 1 of this chapter.

25 (b) Any law enforcement officer or any other person having  
 26 authority to impound animals who has probable cause to believe there  
 27 has been a violation of this chapter or IC 15-5-12-3 may take custody  
 28 of the animal involved.

29 (c) The owner of an animal that has been impounded under this  
 30 section may prevent disposition of the animal by an animal shelter that  
 31 is caring for the animal by posting, not later than ten (10) days after the  
 32 animal has been impounded, a bond with the court in an amount  
 33 sufficient to provide for the animal's care and keeping for at least thirty  
 34 (30) days, beginning from the date the animal was impounded. The  
 35 owner may renew a bond by posting a new bond, in an amount  
 36 sufficient to provide for the animal's care and keeping for at least an  
 37 additional thirty (30) days, not later than ten (10) days after the  
 38 expiration of the period for which a previous bond was posted. If a  
 39 bond expires and is not renewed, the animal shelter may determine  
 40 disposition of the animal, subject to court order. If the owner of an  
 41 animal impounded under this section is convicted of an offense under  
 42 this chapter or IC 15-5-12-3, the owner shall reimburse the animal

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1 shelter for the expense of the animal's care and keeping. If the owner  
 2 has paid a bond under this subsection, the animal shelter may euthanize  
 3 an animal if a veterinarian determines that an animal is suffering  
 4 extreme pain.

5 (d) If the owner requests, the court having jurisdiction of criminal  
 6 charges filed under this chapter or IC 15-5-12 shall hold a hearing to  
 7 determine whether probable cause exists to believe that a violation of  
 8 this chapter or IC 15-5-12 has occurred. If the court determines that  
 9 probable cause does not exist, the court shall order the animal returned  
 10 to its owner, and the return of any bond posted by its owner.

11 (e) This subsection applies only to livestock animals. Whenever  
 12 charges are filed under this chapter, the court shall appoint the state  
 13 veterinarian under IC 15-2.1-2-50 or the state veterinarian's designee  
 14 to:

- 15 (1) investigate the condition of the animal and the circumstances  
 16 relating to the animal's condition; and
- 17 (2) make a recommendation to the court under subsection (f)  
 18 regarding the confiscation of the animal.

19 (f) The state veterinarian or the state veterinarian's designee who is  
 20 appointed under subsection (e) shall do the following:

- 21 (1) Make a recommendation to the court concerning whether  
 22 confiscation is necessary to protect the safety and well-being of  
 23 the animal.
- 24 (2) If confiscation is recommended under subdivision (1),  
 25 recommend a manner for handling the confiscation and  
 26 disposition of the animal that is in the best interests of the animal.

27 The state veterinarian or the state veterinarian's designee who submits  
 28 a recommendation under this subsection shall articulate to the court the  
 29 reasons supporting the recommendation.

30 (g) The court:

- 31 (1) shall give substantial weight to; and
- 32 (2) may enter an order based upon;

33 a recommendation submitted under subsection (f).

34 (h) If a person is convicted of an offense under this chapter or  
 35 IC 15-5-12, the court may impose the following additional penalties  
 36 against the person:

- 37 (1) A requirement that the person pay the costs of caring for an  
 38 animal involved in the offenses that are incurred during a period  
 39 of impoundment authorized under subsection (b).
- 40 (2) An order terminating **or imposing conditions on** the person's  
 41 right to possession, title, custody, or care of:

42 (A) an animal that was involved in the offense; **or**

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1                   **(B) any other animal in the custody or care of the person.**

2                   (i) If a person's right to possession, title, custody, or care of an  
3 animal is terminated under subsection (h), the court may:

4                   (1) award the animal to a humane society or other organization  
5 that has as its principal purpose the humane treatment of animals;  
6 or

7                   (2) order the disposition of the animal as recommended under  
8 subsection (f).

9                   SECTION 7. IC 35-46-3-12 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) This section  
11 does not apply to a person who euthanizes an injured, a sick, a  
12 homeless, or an unwanted domestic animal if:

13                   (1) the person is employed by a humane society, an animal control  
14 agency, or a governmental entity operating an animal shelter or  
15 other animal impounding facility; and

16                   (2) the person euthanizes the domestic animal in accordance with  
17 guidelines adopted by the humane society, animal control agency,  
18 or governmental entity operating the animal shelter or other  
19 animal impounding facility.

20                   (b) A person who knowingly or intentionally beats a vertebrate  
21 animal commits cruelty to an animal, a Class A misdemeanor.  
22 However, the offense is a Class D felony if:

23                   (1) the person has a previous, unrelated conviction under this  
24 section; ~~or~~

25                   (2) the person knowingly or intentionally tortures or mutilates a  
26 vertebrate animal; or

27                   **(3) the person committed the offense with the intent to**  
28 **threaten, intimidate, coerce, harass, or terrorize a family or**  
29 **household member.**

30                   (c) It is a defense to a prosecution under this section that the  
31 accused person:

32                   (1) reasonably believes the conduct was necessary to:

33                   (A) prevent injury to the accused person or another person;

34                   (B) protect the property of the accused person from destruction  
35 or substantial damage; or

36                   (C) prevent a seriously injured vertebrate animal from  
37 prolonged suffering; or

38                   (2) engaged in a reasonable and recognized act of training,  
39 handling, or disciplining the vertebrate animal.

40                   SECTION 8. IC 35-46-3-12.5 IS ADDED TO THE INDIANA  
41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
42 [EFFECTIVE JULY 1, 2007]: **Sec. 12.5. A person who knowingly or**

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1 intentionally kills a vertebrate animal with the intent to threaten,  
2 intimidate, coerce, harass, or terrorize a family or household  
3 member commits domestic violence animal cruelty, a Class D  
4 felony.

5 SECTION 9. IC 35-46-3-14 IS ADDED TO THE INDIANA CODE  
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2007]: Sec. 14. A person who knowingly or intentionally  
8 performs an act involving:

- 9 (1) a sex organ of a person and the mouth or anus of an  
10 animal;
- 11 (2) a sex organ of an animal and the mouth or anus of a  
12 person;
- 13 (3) any penetration of the human female sex organ by an  
14 animal's sex organ; or
- 15 (4) any penetration of an animal's sex organ by the human  
16 male sex organ;

17 commits bestiality, a Class A misdemeanor. However, the offense  
18 is a Class D felony if the animal suffers extreme pain or death.

19 SECTION 10. [EFFECTIVE JULY 1, 2007] IC 35-46-3-12, as  
20 amended by this act, and IC 35-46-3-12.5 and IC 35-46-3-14, both  
21 as added by this act, apply only to crimes committed after June 30,  
22 2007.

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