

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 2008 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 236

AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 35-42-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A person who knowingly or intentionally terminates a human pregnancy with an intention other than to produce a live birth or to remove a dead fetus commits feticide, a ~~Class C~~ **Class B** felony. This section does not apply to an abortion performed in compliance with:

- (1) IC 16-34; or
- (2) IC 35-1-58.5 (before its repeal).

SECTION 2. IC 35-50-2-16 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 16. (a) The state may seek, on a page separate from the rest of the charging instrument, to have a person who allegedly committed or attempted to commit murder under IC 35-42-1-1(1) or IC 35-42-1-1(2) sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person, while committing or attempting to commit murder under IC 35-42-1-1(1) or IC 35-42-1-1(2), caused the termination of a human pregnancy.**

**(b) If the person is convicted of the murder or attempted murder in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear**

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evidence in the enhancement hearing.

(c) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person, while committing or attempting to commit murder under IC 35-42-1-1(1) or IC 35-42-1-1(2), caused the termination of a human pregnancy, the court shall sentence the person to an additional fixed term of imprisonment of not less than six (6) or more than twenty (20) years.

(d) A sentence imposed under this section runs consecutively to the underlying sentence.

(e) For purposes of this section, prosecution of the murder or attempted murder under IC 35-42-1-1(1) or IC 35-42-1-1(2) and the enhancement of the penalty for that crime does not require proof that:

- (1) the person committing or attempting to commit the murder had knowledge or should have had knowledge that the victim was pregnant; or
- (2) the defendant intended to cause the termination of a human pregnancy.

SECTION 3. [EFFECTIVE JULY 1, 2009] IC 35-42-1-6, as amended by this act, and IC 35-50-2-16, as added by this act, apply only to a crime committed after June 30, 2009.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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