

Police Prosecutor Update

Issue No. 187

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This month we will *briefly* look at some new legislation. Unless noted otherwise, the new legislation will be effective July 1, 2007.

P.L. 214 amended the law regarding seat belt usage. **IC 9-13-2-123** now defines “passenger motor vehicle” as a vehicle designed to carry passengers. The exemption for trucks and SUVs has been eliminated. **IC 9-19-10-1** allows some new exemptions which will not be listed here. **IC 9-19-10-3.1** (new) allows a vehicle to be stopped for a seat belt violation, but the vehicle or occupants cannot be searched or detained solely on the violation. Also, safety belt checkpoints can no longer be used to detect violations and issue citations.

P.L. 192 amended **IC 35-45-9-1** to reduce the number of members necessary to constitute a gang from 5 to 3. **IC 35-45-9-5** creates the new crime of criminal gang recruitment, a Class D felony. The crime is committed by an individual who knowingly or intentionally solicits, recruits, entices, or intimidates another individual to join a criminal gang. Makes the offense a Class C felony if the solicitation, etc. occurs within 1000 feet of school property or if the individual solicited is less than 18 years of age.

P.L. 220 reinstated the dogs running at large prohibition. **IC 15-5-12-3(c)** makes it a Class D infraction to allow a dog to stray beyond the owner’s premises unless the dog is under the reasonable control of an individual or the dog is legally hunting and is accompanied by the owner or custodian. It does not apply to a “nonaggressive dog” (not defined) that goes beyond the owner’s premises onto agricultural or forested land. **IC 15-5-12-3.5** (new) deals with owners of animals that are offspring of coyotes or wolves.

P.L. 41 created a new law, **IC 35-37-4.5**, prohibiting a law enforcement officer from requiring an alleged victim of a sex crime to submit to a polygraph or other truth telling device. Also, a law enforcement officer may not refuse to investigate, charge, or prosecute a sex crime solely because the alleged victim did not submit to a polygraph or other truth telling device.

With regard to animals, P.L. 171 added **IC 35-45-3-0.5** to more thoroughly define the various forms of cruelty and abuse. Amended **IC 35-46-3-8** to make possession of an animal for purposes of an animal fighting contest a Class D felony instead of a Class A misdemeanor. Amended **IC 35-46-3-12** to add to the list of crimes that constitute a Class D felony, the commission of animal cruelty with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member. Added **IC 35-46-3-14** to create the crime of bestiality. Added **IC 35-46-3-12.5**, which states that a person who knowingly or intentionally kills a vertebrate animal with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member commits domestic violence animal cruelty, a Class D felony.

P.L. 164 amended **IC 35-42-2-1** to make battery a Class D felony if it results in bodily injury to a family or household member if the person who committed the crime is over age 18 and committed the crime in the physical presence of a child less than age 16, knowing that the child was present and might be able to see or hear the offense. It also makes battery a Class C felony if it results in bodily injury to a pregnant woman and the offender knew the woman was pregnant.

(Over)

This is a publication of the Monroe County Prosecutor’s Office which will cover various topics of interest to law enforcement officers. Please direct any suggestions you may have for future issues to Chris Gaal of the Monroe County Prosecutor’s Office.

P.L. 216 amended **IC 35-42-4-6** to make child solicitation a Class B felony if it is committed using a computer network and the person has a prior unrelated conviction for committing the offense by using a computer network.

P.L. 227 amended **IC 35-45-5-3** to make professional gambling a Class C felony if the person has a prior unrelated conviction for professional gambling. Added **IC 35-45-5-3.5** to make mere possession of an electronic gaming device a Class A infraction. It also creates the new crime of maintaining a professional gambling site, a Class D felony. It is defined as knowingly or intentionally accepting or offering to accept, for profit, money or other property risked in gambling on an electronic gaming device maintained by the person.

P.L. 178 amended **IC 35-42-2-6** (battery by body waste) to include probation officers, firefighters, and first responders in the list of persons protected under the statute and added hepatitis C to the list of diseases increasing the penalty for violation of the statute.

P.L. 15 and P.L. 109 amended **IC 35-46-1-4** to specify that a person having the care of a dependent commits neglect of a dependent if the person's abandonment or cruel confinement of the dependent: (1) deprives the dependent of necessary food, water, or sanitary facilities; (2) consists of confinement in an area not intended for human habitation; or (3) involves the unlawful use of handcuffs, a rope, a cord, tape or a similar device to physically restrain the dependent.

P.L. 112 created the new crimes of unlawful combative fighting, Class C misdemeanor, and unlawful promotion or organization of combative fighting, Class A misdemeanor. P.L. 40 deals with highway work zone safety. P.L. 69 amended **IC 35-44-1-5** to create Class B felony sexual misconduct. P.L. 206 creates electronic traffic tickets. P.L. 137 created **IC 35-43-1-5**, adding the felonies of tampering with and poisoning a water supply. Finally, P.L. 147 added a misdemeanor dealing with anatomical gifts, **IC 35-46-5-4**.