

HOUSE BILL No. 1104

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-24-5; IC 35-45-2-2.

Synopsis: Harassment. Makes it harassment, a Class B misdemeanor, for a person to, with intent to harass, annoy, defame, ridicule, or alarm another person but with no intent of legitimate communication: (1) make a telephone call, whether or not a conversation ensues; (2) communicate with a person by telegraph, mail, or other form of written communication; (3) transmit an obscene message, or indecent or profane words, on a Citizens Radio Service channel; or (4) use a computer network, a cellular or other wireless communications device, or other form of electronic communication to: (A) communicate with a person; (B) transmit an obscene message or indecent or profane words to a person; or (C) convey to a third person or post on the Internet a digital image or video of the other person that depicts the other person in a state of nudity or engaged in sexual conduct. Provides that if a person is convicted of harassment, the victim of the offense: (1) has a civil cause of action against the convicted person; and (2) may recover actual damages, equitable relief, including injunctive relief, punitive damages, reasonable attorney's fees and court costs, and any other relief a court considers proper from the convicted person in the civil action.

Effective: July 1, 2016.

Hale

January 7, 2016, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1104

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 34-24-5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]:

4 **Chapter 5. Cause of Action for Victims of Harassment**

5 **Sec. 1. If a person is convicted of harassment under**
6 **IC 35-45-2-2, the victim of the offense:**

7 **(1) has a civil cause of action against the person convicted of**
8 **the offense; and**

9 **(2) may recover the following from the person in the civil**
10 **action:**

11 **(A) Actual damages.**

12 **(B) Equitable relief, including injunctive relief.**

13 **(C) Punitive damages.**

14 **(D) Reasonable attorney's fees and court costs.**

15 **(E) Any other relief a court considers proper.**

16 **Sec. 2. An action under this chapter must be brought not more**
17 **than two (2) years after the date the person is convicted of**



harassment under IC 35-45-2-2.

SECTION 2. IC 35-45-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) A person who, with intent to harass, annoy, **defame, ridicule**, or alarm another person but with no intent of legitimate communication:

- (1) makes a telephone call, whether or not a conversation ensues;
- (2) communicates with a person by telegraph, mail, or other form of written communication;
- (3) transmits an obscene message, or indecent or profane words, on a Citizens Radio Service channel; or
- (4) uses a computer network (as defined in IC 35-43-2-3(a)), **a cellular or other wireless communications device**, or other form of electronic communication to:

- (A) communicate with a person; **or**

- (B) transmit an obscene message or indecent or profane words to a person; **or**

- (C) **convey to a third person or post on the Internet a digital image or video of the other person that depicts the other person:**

- (i) **in a state of nudity (as defined in IC 35-45-4-1(d)); or**

- (ii) **engaged in sexual conduct (as defined in IC 35-42-4-4(a)(4));**

commits harassment, a Class B misdemeanor.

(b) A message is obscene if:

- (1) the average person, applying contemporary community standards, finds that the dominant theme of the message, taken as a whole, appeals to the prurient interest in sex;
- (2) the message refers to sexual conduct in a patently offensive way; and
- (3) the message, taken as a whole, lacks serious artistic, literary, political, or scientific value.

