



POLICE / PROSECUTOR UPDATE

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More New Legislation

IC 35-41-4-2 is amended to allow a prosecution for a Class B or Class C felony that would otherwise be barred by the 5-year statute of limitations. Prosecution must be commenced within one year of the date the state first discovers the identity of the offender with DNA evidence or could have discovered the identity of the offender with DNA evidence by the exercise of due diligence, whichever date is earlier. Allows a prosecution to be brought before July 1, 2002, if the offender was first identified with DNA evidence after the statute of limitation had run but before July 1, 2001. These amendments apply to all crimes regardless of whether the crime was **committed before, on, or after July 1, 2001**.

IC 35-42-2-1 is amended to make Battery a *Class A felony* if it results in the death of a person less than 14 years of age and is committed by a person at least 18 years of age.

Several statutes in **IC 35-48-4** are amended to make the criminal penalties for offenses relating to methamphetamine equal to the penalties for offenses relating to cocaine and narcotic drugs and to include "youth program centers" (defined in IC 35-41-1-29) in the list of 1,000 feet penalty enhancements for drug offenses.

IC 22-11-20-6(b) was added to create a new *Class A Misdemeanor* of possessing or transporting anhydrous ammonia in an improper container (does not apply to persons storing or transporting the substance for a lawful agricultural or commercial purpose).

The meth lab statute was amended to create a new *Class D felony* at **IC 35-48-4-14.5(b)** for a person to possess anhydrous ammonia or an ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine. It is enhanced to a *Class C felony* if the person possessed a firearm or is within 1,000 feet of school property, a public park, a family housing complex, or a youth program center.

A new *Class D felony* is created at **IC 35-48-4-4.1** for "dumping controlled substance waste." (knowledge that chemicals were used in the illegal manufacture of a controlled substance is required)

The Disposition of Property statute, **IC 35-33-5-5**, was amended to permit a law enforcement agency to destroy chemicals or controlled substances without a court order if certain conditions are met.

The Intimidation statute, **IC 35-45-2-1**, was amended to include communicating a threat with intent to cause a dwelling, building, or other structure, or a vehicle, to be evacuated. The *Class D felony* enhancement is expanded to include situations where the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity.

The wording of the Public Intoxication statutes, **IC 7.1-5-1-3** and **IC 7.1-5-1-6**, was changed to criminalize being in a state of intoxication caused by the person's use of alcohol or a controlled substance.

The Stalking statute, **IC 35-45-10-5**, was amended to expand the list of *Class C felony* enhancements.

Finally, **IC 35-46-1-12**, dealing with exploitation of a dependent or endangered adult, was amended to include a *Class D felony* enhancement.

The following new offenses were created:

IC 35-42-2-8 - interference with medical services;

IC 35-47-12 - terrorism and agricultural terrorism;

IC 35-43-5-3.5 - identity deception;

IC 35-43-5-14 - false or fraudulent sales documents;

IC 35-44-4-5 - offenses relating to firemen and emergency incident areas (note that the Obstructing a Fireman statute, IC 35-44-3-8, was repealed effective July 1);

IC 25-5.2 - offenses relating to athlete agents;

IC 33-16-2-10 - deceptive advertising - notarios.

This is a publication of the Clark County Prosecuting Attorney, covering various topics of interest to law enforcement officers. It is directed solely toward issues of evidence, criminal law and procedure. Please consult your city, town, or county attorney for legal advice relating to civil liability. Please direct any suggestions you may have for future issues to Steve Stewart at 285-6264.