

# Domestic Violence Is A Crime!

## **35-42-2-1.3. Domestic Battery**

(a) A person who knowingly or intentionally touches an individual who:

- (1) is or was a spouse of the other person;
- (2) is or was living as if a spouse of the other person as provided in subsection (c); or
- (3) has a child in common with the other person;

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor.

(b) However, the offense under subsection (a) is a Class D felony if the person who committed the offense:

- (1) has a previous, unrelated conviction:
  - (A) under this section (or IC 35-42-2-1(a)(2)(E) before its repeal); or
  - (B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements described in this section; or
- (2) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(c) In considering whether a person is or was living as a spouse of another individual in subsection (a)(2), the court shall review the following:

- (1) the duration of the relationship;
- (2) the frequency of contact;
- (3) the financial interdependence;
- (4) whether the two (2) individuals are raising children together;
- (5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and
- (6) other factors the court considers relevant.

**Indiana Code 35-33-1-1** Provides that a law enforcement officer may make a warrantless arrest of a person when the officer has probable cause to believe the person has committed domestic battery. The law enforcement officer may use an affidavit executed by an individual alleged to have direct knowledge of the incident alleging the elements of the offense to establish probable cause. A law enforcement officer may also arrest any person who is interfering with or preventing the reporting of a crime involving domestic or family violence.

**Indiana Code 35-33-1-1.5** Provides that a law enforcement officer may confiscate and remove a firearm, ammunition, or a deadly weapon from the scene if the officer has probable cause to believe that a crime involving domestic or family violence has occurred and (1) a reasonable belief the weapon exposes the victim to an immediate risk of serious bodily harm or (2) was an instrumentality of the crime, and the officer observed the weapon at the scene during his or her response.

## **YOU HAVE RIGHTS!**

- ➔ **Indiana Code 35-40-5-1:** The right to be treated with fairness, dignity, and respect throughout the criminal justice process.
- ➔ **Indiana Code 35-40-5-2:** The right to be informed, upon request, when his or her abuser is released from custody or has escaped.
- ➔ **Indiana Code 35-40-5-3:** Victims of a felony or of a crime of domestic violence or family violence have the right to confer with a representative of the Prosecuting Attorney's Office after the crime has been charged before the trial, and before any disposition of a criminal case involving the victim.
- ➔ **Indiana Code 35-40-5-4:** The right to have the victim's safety considered in determining release from custody of a person of committing a crime against the victim.
- ➔ **Indiana Code 35-40-5-5:** The right to be heard at any proceeding involving sentencing or a post conviction release decision.
- ➔ **Indiana Code 35-40-5-6:** The right to make a written or oral statement for use in preparation of the pre-sentence report. The right to read pre-sentence reports relating to the crime committed against the victim, except those parts of the reports containing the source of confidential information, information about another victim, or information determined confidential or privileged by the judge in a proceeding. The right to be afforded a fair opportunity to respond to the material included in the pre-sentence report.
- ➔ **Indiana Code 35-40-5-7:** The right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim.
- ➔ **Indiana Code 35-40-5-8:** The right to information, upon request, about the disposition of the criminal case involving the victim or the conviction, sentence, and release of a person accused of committing a crime against the victim.
- ➔ **Indiana Code 35-40-5-9:** The right to be informed of the victim's constitutional and statutory rights.