

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

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Section

Curfew

- 130.01 Definitions
- 130.02 Prohibited activities
- 130.03 Exceptions
- 130.04 Enforcement procedure

- 130.99 Penalty

CURFEW

§ 130.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CURFEW HOURS. This term means:

- (1) For a child 15, 16 or 17 years of age:
 - (a) Between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;
 - (b) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday; and
 - (c) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday or Friday; and
- (2) For a child under 15 years of age, after 11:00 p.m. or before 5:00 a.m. on any day.

EMERGENCY. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The terms includes, but is not limited to, a fire, natural disaster, automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

GUARDIAN. This term means:

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

MINOR. Any person under 18 years of age and is synonymous with the term **JUVENILE** for the purposes of this chapter.

PARENT. A person who is:

- (1) A natural parent, adoptive parent or stepparent of another person; or
- (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

PUBLIC PLACE. Any place to which the public or a substantial group of the public has access and includes but is not limited to, streets, sidewalks, highways and private residences left open to the public without the presence of adult supervision and the common areas of schools, hospitals, apartments, office buildings and transportation facilities.

REMAIN. To:

- (1) Linger or stay, whether on foot or in a vehicle; or
- (2) Fail to leave premises when requested to do so by a police officer or the owner, operator or person in control of the premises.
(Ord. 1998-4B, passed 5-12-98)

§ 130.02 PROHIBITED ACTIVITIES.

(A) It is a violation of this subchapter and unlawful for a child 15, 16 or 17 years of age to be in a public place:

- (1) Between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;
- (2) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday; and
- (3) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday or Friday.

(B) It is a violation of this subchapter and unlawful for a child under 15 years of age to be in a public place after 11:00 p.m. on or before 5:00 a.m. on any day.

(C) It is a violation of this subchapter and unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in a public place within the city during curfew hours. A parent or guardian who:

(1) Despite his or her best efforts, is unable to bring his or her minor child into compliance with this subchapter; and

(2) Notifies local law enforcement authorities of his or her unsuccessful efforts and the minor child's violation of this subchapter, is not in violation of this subchapter.
(Ord. 1998-4B, passed 5-12-98) Penalty, see § 130.99

§ 130.03 EXCEPTIONS.

(A) It is a defense to a violation under this chapter that, at the time that the child engaged in the prohibited conduct, the child was emancipated:

- (1) Under I.C. 31-37-19-27 or I.C. 31-6-4-15.7 (before its repeal);
- (2) By virtue of having married; or
- (3) In accordance with the laws of another state or jurisdiction.

(B) It is a defense to a violation under this chapter that the child engaged in the prohibited conduct while:

- (1) Accompanied by the child's parent, guardian, or custodian;
- (2) Accompanied by an adult specified by the child's parent, guardian, or custodian;
- (3) Participating in, going to, or returning from:
 - (a) Lawful employment;
 - (b) A school sanctioned activity;
 - (c) A religious event;
 - (d) An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - (e) An activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or

(f) An activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one or more adults; or

(4) Engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

(Ord. 1998-4B, passed 5-12-98)

§ 130.04 ENFORCEMENT PROCEDURE.

(A) Before taking any enforcement action under this section, a police officer or code enforcement officer will ask the apparent offender's age and reason for being in the public place. The officer will not issue a citation or make an arrest under this section unless the officer reasonably believes that a violation of this subchapter has occurred.

(B) Pursuant to I.C. 31-37-5, whenever a law enforcement officer believes in good faith that a person has committed a violation of this subchapter, the law enforcement officer may detain that person for a time sufficient to:

(1) Inform the person of the allegation;

(2) Obtain the person's:

(a) Name, address and date of birth; or

(b) Driver's license, if in his or her possession; and

(3) Allow the person to execute a notice to appear.

(Ord. 1998-4B, passed 5-12-98)

§ 130.99 PENALTY.

(A) Whoever shall violate any provision of this chapter for which no specific penalty is provided shall be punished as set forth in § 10.99 of this code.

(B) Minors and their parent(s) and/or guardian(s) who violate any of the provisions of §§ 130.01 *et seq.* will be guilty of an ordinance violation and will be subject to the following sanctions:

(1) For a minor's first offense, the minor will be issued a warning from local law enforcement authorities and his or her parent(s) and/or guardian(s) will be notified of the violation;

(2) For a minor's second offense, the minor will be prosecuted for the violation, a judgment will be sought against them in the amount of \$25, plus court costs, and his or her parent(s) and/or guardian(s) will be notified of the violation;

(3) For a minor's third offense, the minor and his or her parent(s) and/or guardian(s) will be prosecuted for the violation and a judgment will be sought against each of them in the amount of \$50, plus court costs; and

(4) For a minor's fourth offense and subsequent offense(s), the minor and his or her parent(s) and/or guardian(s) will be prosecuted for the violation and a judgement will be sought against each of them in the amount of \$100, plus court costs.
(Ord. 1998-4B, passed 5-12-98)

