

PROPOSED AMENDMENT

HB 1188 # 2

DIGEST

Resisting law enforcement. Resets resisting law enforcement to a Level 6 felony if it is committed by using a vehicle, and resets penalties enhanced to a Level 4 felony to a Level 5 felony. Conforms license suspension penalties and habitual violator status for a person convicted of resisting law enforcement by a vehicle in a manner that creates a substantial risk of bodily injury to the penalties imposed for resisting law enforcement involving the use of a motor vehicle.

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 9-30-10-4, AS AMENDED BY P.L.201-2019,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2025]: Sec. 4. (a) A person who has accumulated at least two
- 5 (2) judgments within a ten (10) year period for any of the following
- 6 violations, singularly or in combination, and not arising out of the same
- 7 incident, is a habitual violator:
- 8 (1) Reckless homicide resulting from the operation of a motor
- 9 vehicle.
- 10 (2) Voluntary or involuntary manslaughter resulting from the
- 11 operation of a motor vehicle.
- 12 (3) Failure of the operator of a motor vehicle involved in an
- 13 accident resulting in death or injury to any person to stop at the
- 14 scene of the accident and give the required information and
- 15 assistance.
- 16 (4) Operation of a vehicle while intoxicated resulting in death.
- 17 (5) Before July 1, 1997, operation of a vehicle with at least
- 18 ten-hundredths percent (0.10%) alcohol in the blood resulting in
- 19 death.
- 20 (6) After June 30, 1997, and before July 1, 2001, operation of a
- 21 vehicle with an alcohol concentration equivalent to at least
- 22 ten-hundredths (0.10) gram of alcohol per:
- 23 (A) one hundred (100) milliliters of the blood; or
- 24 (B) two hundred ten (210) liters of the breath;

1 resulting in death.

2 (7) After June 30, 2001, operation of a vehicle with an alcohol
3 concentration equivalent to at least eight-hundredths (0.08) gram
4 of alcohol per:

5 (A) one hundred (100) milliliters of the blood; or

6 (B) two hundred ten (210) liters of the breath;

7 resulting in death.

8 (b) A person who has accumulated at least three (3) judgments
9 within a ten (10) year period for any of the following violations,
10 singularly or in combination, and not arising out of the same incident,
11 is a habitual violator:

12 (1) Operation of a vehicle while intoxicated.

13 (2) Before July 1, 1997, operation of a vehicle with at least
14 ten-hundredths percent (0.10%) alcohol in the blood.

15 (3) After June 30, 1997, and before July 1, 2001, operation of a
16 vehicle with an alcohol concentration equivalent to at least
17 ten-hundredths (0.10) gram of alcohol per:

18 (A) one hundred (100) milliliters of the blood; or

19 (B) two hundred ten (210) liters of the breath.

20 (4) After June 30, 2001, operation of a vehicle with an alcohol
21 concentration equivalent to at least eight-hundredths (0.08) gram
22 of alcohol per:

23 (A) one hundred (100) milliliters of the blood; or

24 (B) two hundred ten (210) liters of the breath.

25 (5) Reckless driving.

26 (6) Criminal recklessness as a felony involving the operation of
27 a motor vehicle.

28 (7) Drag racing or engaging in a speed contest in violation of law.

29 (8) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46
30 (repealed July 1, 1991), IC 9-26-1-1(1) (repealed January 1,
31 2015), IC 9-26-1-1(2) (repealed January 1, 2015), IC 9-26-1-2(1)
32 (repealed January 1, 2015), IC 9-26-1-2(2) (repealed January 1,
33 2015), IC 9-26-1-3 (repealed January 1, 2015), IC 9-26-1-4
34 (repealed January 1, 2015), or IC 9-26-1-1.1.

35 (9) Resisting law enforcement under ~~IC 35-44.1-3-1(c)(1)(A)~~;
36 ~~IC 35-44.1-3-1(c)(2)~~; ~~IC 35-44.1-3-1(c)(3)~~; or
37 ~~IC 35-44.1-3-1(c)(4)~~. **IC 35-44.1-3-1(c)(1),**
38 **IC 35-44.1-3-1(c)(2)(C) through IC 35-44.1-3-1(c)(2)(E),**
39 **IC 35-44.1-3-1(c)(3), or IC 35-44.1-3-1(c)(4).**

40 (10) Any felony under this title or any felony in which the

operation of a motor vehicle is an element of the offense.

A judgment for a violation enumerated in subsection (a) shall be added to the violations described in this subsection for the purposes of this subsection.

(c) A person who has accumulated at least ten (10) judgments within a ten (10) year period for any traffic violation, except a parking or an equipment violation, of the type required to be reported to the bureau, singularly or in combination, and not arising out of the same incident, is a habitual violator. However, at least one (1) of the judgments must be for:

(1) a violation enumerated in subsection (a);

(2) a violation enumerated in subsection (b);

(3) operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-2, or IC 9-24-19-3; or

(4) operating a motor vehicle without ever having obtained a license to do so.

A judgment for a violation enumerated in subsection (a) or (b) shall be added to the judgments described in this subsection for the purposes of this subsection.

(d) For purposes of this section, a judgment includes a judgment in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of the offenses described in subsections (a), (b), and (c).

(e) For purposes of this section, the offense date is used when determining the number of judgments accumulated within a ten (10) year period.

SECTION 2. IC 35-44.1-3-1, AS AMENDED BY P.L.141-2024, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 1. (a) A person who knowingly or intentionally:

(1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;

(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or

(3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law

1 enforcement officer's siren or emergency lights, identified himself
 2 or herself and ordered the person to stop;
 3 commits resisting law enforcement, a Class A misdemeanor, except as
 4 provided in subsection (c).

5 (b) A person who, having been denied entry by a firefighter, an
 6 emergency medical services provider, or a law enforcement officer,
 7 knowingly or intentionally enters an area that is marked off with barrier
 8 tape or other physical barriers, commits interfering with public safety,
 9 a Class B misdemeanor, except as provided in subsection (c) or (k).

10 (c) The offense under subsection (a) or (b) is a:

11 (1) Level 6 felony if ~~(A)~~ the person uses a vehicle to commit the
 12 offense; ~~or~~

13 ~~(B)~~ **(2) Level 5 felony if: while committing the offense, the**
 14 ~~person:~~

15 ~~(i)~~ **(A) while committing the offense, the person** draws or
 16 uses a deadly weapon;

17 ~~(ii)~~ **(B) while committing the offense, the person** inflicts
 18 bodily injury on or otherwise causes bodily injury to another
 19 person; ~~or~~

20 ~~(iii)~~ **(C) while committing the offense, the person** operates
 21 a vehicle in a manner that creates a substantial risk of bodily
 22 injury to another person;

23 ~~(2) Level 5 felony if:~~

24 ~~(A)~~ **(D) while committing the offense, the person** operates a
 25 vehicle in a manner that causes serious bodily injury to another
 26 person; or

27 ~~(B)~~ **(E) the person** uses a vehicle to commit the offense and the
 28 person has a prior unrelated conviction under this section
 29 involving the use of a vehicle in the commission of the
 30 offense;

31 (3) Level 3 felony if, while committing the offense, the person
 32 operates a vehicle in a manner that causes the death or
 33 catastrophic injury of another person; and

34 (4) Level 2 felony if, while committing any offense described in
 35 subsection (a), the person operates a vehicle in a manner that
 36 causes the death or catastrophic injury of a firefighter, an
 37 emergency medical services provider, or a law enforcement
 38 officer while the firefighter, emergency medical services provider,
 39 or law enforcement officer is engaged in the firefighter's,
 40 emergency medical services provider's, or officer's official duties.

(d) The offense under subsection (a) is a Level 6 felony if, while committing an offense under:

(1) subsection (a)(1) or (a)(2), the person:

(A) creates a substantial risk of bodily injury to the person or another person; and

(B) has two (2) or more prior unrelated convictions under subsection (a); or

(2) subsection (a)(3), the person has two (2) or more prior unrelated convictions under subsection (a).

(e) If a person uses a vehicle to commit a felony offense under subsection ~~(c)(1)(B)~~, **(c)(1)**, (c)(2), (c)(3), or (c)(4), as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

(1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;

(2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or

(3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(f) Notwithstanding IC 35-50-2-2.2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (e) may not be suspended.

(g) If a person is convicted of an offense involving the use of a motor vehicle under:

(1) ~~subsection (c)(1)(A)~~, **subsection (c)(1)**, if the person exceeded the speed limit by at least twenty (20) miles per hour while committing the offense;

(2) subsection (c)(2); or

(3) subsection (c)(3);

the court may notify the bureau of motor vehicles to suspend or revoke the person's driver's license in accordance with IC 9-30-4-6.1(b) for the period described in IC 9-30-4-6.1(d)(1) or IC 9-30-4-6.1(d)(2). The court shall inform the bureau whether the person has been sentenced to a term of incarceration. At the time of conviction, the court may obtain the person's current driver's license and return the license to the bureau of motor vehicles.

(h) A person may not be charged or convicted of a crime under subsection (a)(3) if the law enforcement officer is a school resource officer acting in the officer's capacity as a school resource officer.

(i) A person who commits an offense described in subsection (c)

1 commits a separate offense for each person whose bodily injury,
2 serious bodily injury, catastrophic injury, or death is caused by a
3 violation of subsection (c).

4 (j) A court may order terms of imprisonment imposed on a person
5 convicted of more than one (1) offense described in subsection (c) to
6 run consecutively. Consecutive terms of imprisonment imposed under
7 this subsection are not subject to the sentencing restrictions set forth in
8 IC 35-50-1-2(c) through IC 35-50-1-2(d).

9 (k) As used in this subsection, "family member" means a child,
10 grandchild, parent, grandparent, or spouse of the person. It is a defense
11 to a prosecution under subsection (b) that the person reasonably
12 believed that the person's family member:

13 (1) was in the marked off area; and

14 (2) had suffered bodily injury or was at risk of suffering bodily
15 injury;

16 if the person is not charged as a defendant in connection with the
17 offense, if applicable, that caused the area to be secured by barrier tape
18 or other physical barriers."

19 Delete pages 2 through 3.

20 Page 4, delete lines 1 through 3.

21 Renumber all SECTIONS consecutively.

(Reference is to HB 1188 as introduced.)