

HOUSE BILL No. 1029

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-33-1-4; IC 35-41-3-3; IC 35-47-4-3.

Synopsis: Citizen's arrests. Specifies that a person may perform a citizen's arrest only if: (1) the arrest is justified under the self-defense statute; (2) the arrest is justified under the shoplifter or unlawful recording detention statutes; or (3) the arrest is based on a criminal offense committed on private property in the presence of the arresting person, if the arresting person has a contractual interest in the property or is an employee of an establishment located on the property. Makes conforming amendments.

Effective: July 1, 2022.

Harris

January 4, 2022, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1029

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 35-33-1-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) ~~Any~~ **A person**
3 **who is not a law enforcement officer** may arrest ~~any other another~~
4 **person only** if:
5 (1) ~~the other person committed a felony in his presence;~~
6 (2) ~~a felony has been committed and he has probable cause to~~
7 ~~believe that the other person has committed that felony;~~ or
8 (3) ~~a misdemeanor involving a breach of peace is being~~
9 ~~committed in his presence and the arrest is necessary to prevent~~
10 ~~the continuance of the breach of peace.~~
11 **(1) the person making the arrest is justified in using**
12 **reasonable force against the other person under IC 35-41-3-2**
13 **(self-defense);**
14 **(2) the other person's detention is justified under IC 35-33-6-2**
15 **(detention of shoplifter) or IC 35-33-6-2.5 (detention of person**
16 **making an unlawful recording), and the person making the**
17 **arrest complies with the requirements of IC 35-33-6-2 or**



1 **IC 35-33-6-2.5, as appropriate; or**

2 **(3) the other person:**

3 **(A) committed a felony in the presence of the person; or**

4 **(B) is committing a misdemeanor involving a breach of**
 5 **peace in the presence of the other person, and the arrest is**
 6 **necessary to prevent the continuance of the breach of**
 7 **peace;**

8 **if the felony or misdemeanor is committed on private**
 9 **property, including private property open to the public, and**
 10 **the person performing the arrest either has a contractual**
 11 **interest in the property or is an employee of an establishment**
 12 **located on the property.**

13 (b) A person making an arrest under this section shall, as soon as
 14 practical, notify a law enforcement officer and deliver custody of the
 15 person arrested to a law enforcement officer.

16 (c) The law enforcement officer may process the arrested person as
 17 if the officer had arrested ~~him~~: **the person**. The officer who receives or
 18 processes a person arrested by another under this section is not liable
 19 for false arrest or false imprisonment.

20 SECTION 2. IC 35-41-3-3, AS AMENDED BY P.L.12-2021,
 21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2022]: Sec. 3. (a) The following definitions apply throughout
 23 this section:

24 (1) "Chokehold" means applying pressure to the throat or neck of
 25 another person in a manner intended to obstruct the airway of the
 26 other person.

27 (2) "Deadly force" includes a chokehold.

28 (b) ~~A person other than a law enforcement officer is justified in~~
 29 ~~using reasonable force against another person to effect an arrest or~~
 30 ~~prevent the other person's escape if:~~

31 ~~(1) a felony has been committed; and~~

32 ~~(2) there is probable cause to believe the other person committed~~
 33 ~~that felony.~~

34 ~~However, such a person is not justified in using deadly force unless that~~
 35 ~~force is justified under section 2 of this chapter.~~

36 ~~(c) A law enforcement officer is justified in using reasonable force~~
 37 ~~if the officer reasonably believes that the force is necessary to enforce~~
 38 ~~a criminal law or to effect a lawful arrest. However, an officer is~~
 39 ~~justified in using deadly force only if the officer:~~

40 ~~(1) has probable cause to believe that that deadly force is~~
 41 ~~necessary:~~

42 ~~(A) to prevent the commission of a forcible felony; or~~



- 1 (B) to effect an arrest of a person who the officer has probable
 2 cause to believe poses a threat of serious bodily injury to the
 3 officer or a third person; and
 4 (2) has given a warning, if feasible, to the person against whom
 5 the deadly force is to be used.
- 6 ~~(d)~~ (c) A law enforcement officer making an arrest under an invalid
 7 warrant is justified in using force as if the warrant was valid, unless the
 8 officer knows that the warrant is invalid.
- 9 ~~(e)~~ (d) A law enforcement officer who has an arrested person in
 10 custody is justified in using the same force to prevent the escape of the
 11 arrested person from custody that the officer would be justified in using
 12 if the officer was arresting that person. However, an officer is justified
 13 in using deadly force only if the officer:
 14 (1) has probable cause to believe that deadly force is necessary to
 15 prevent the escape from custody of a person who the officer has
 16 probable cause to believe poses a threat of serious bodily injury
 17 to the officer or a third person; and
 18 (2) has given a warning, if feasible, to the person against whom
 19 the deadly force is to be used.
- 20 ~~(f)~~ (e) A guard or other official in a penal facility or a law
 21 enforcement officer is justified in using reasonable force, including
 22 deadly force, if the officer has probable cause to believe that the force
 23 is necessary to prevent the escape of a person who is detained in the
 24 penal facility.
- 25 ~~(g)~~ (f) Notwithstanding subsection (b), ~~(c)~~, (d), or (e), or ~~(f)~~; a
 26 guard, penal facility official, or law enforcement officer who is a
 27 defendant in a criminal prosecution has the same right as a person who
 28 is not a guard, penal facility official, or law enforcement officer to
 29 assert self-defense under IC 35-41-3-2.
- 30 SECTION 3. IC 35-47-4-3, AS AMENDED BY P.L.158-2013,
 31 SECTION 589, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) This section does not apply
 33 to a law enforcement officer who is acting within the scope of the law
 34 enforcement officer's official duties or to a person who is justified in
 35 using reasonable force against another person under
 36 ~~(1)~~ IC 35-41-3-2 (self-defense). or
 37 ~~(2)~~ IC 35-41-3-3.
 38 (b) A person who knowingly or intentionally points a firearm at
 39 another person commits a Level 6 felony. However, the offense is a
 40 Class A misdemeanor if the firearm was not loaded.

