

HOUSE BILL No. 1042

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-30-2.1-553; IC 35-33-1-4; IC 35-41-3-3;
IC 35-47-4-3.

Synopsis: Citizen's arrests. Prohibits citizen's arrests. Makes
conforming amendments.

Effective: July 1, 2023.

Harris

January 9, 2023, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1042

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 IC 34-30-2.1-553 IS REPEALED [EFFECTIVE JULY
2 1, 2023]. ~~Sec. 553. IC 35-33-1-4 (Concerning a law enforcement~~
3 ~~officer who receives or processes a person arrested by a person other~~
4 ~~than the law enforcement officer).~~

5 SECTION 2. IC 35-33-1-4 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. ~~(a) Any~~ A person
7 **who is not a law enforcement officer** may **not** arrest any other
8 **another** person. ~~if:~~

- 9 (1) the other person committed a felony in his presence;
- 10 (2) a felony has been committed and he has probable cause to
- 11 believe that the other person has committed that felony; or
- 12 (3) a misdemeanor involving a breach of peace is being
- 13 committed in his presence and the arrest is necessary to prevent
- 14 the continuance of the breach of peace.

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



1 (c) The law enforcement officer may process the arrested person as
 2 if the officer had arrested him. The officer who receives or processes
 3 a person arrested by another under this section is not liable for false
 4 arrest or false imprisonment.

5 SECTION 3. IC 35-41-3-3, AS AMENDED BY P.L.12-2021,
 6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2023]: Sec. 3. (a) The following definitions apply throughout
 8 this section:

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

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

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

16 (1) a felony has been committed; and

17 (2) there is probable cause to believe the other person committed
 18 that felony.

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

21 (c) A law enforcement officer is justified in using reasonable
 22 force if the officer reasonably believes that the force is necessary to
 23 enforce a criminal law or to effect a lawful arrest. However, an officer
 24 is justified in using deadly force only if the officer:

25 (1) has probable cause to believe that that deadly force is
 26 necessary:

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

28 (B) to effect an arrest of a person who the officer has probable
 29 cause to believe poses a threat of serious bodily injury to the
 30 officer or a third person; and

31 (2) has given a warning, if feasible, to the person against whom
 32 the deadly force is to be used.

33 (d) A law enforcement officer making an arrest under an invalid
 34 warrant is justified in using force as if the warrant was valid, unless the
 35 officer knows that the warrant is invalid.

36 (e) A law enforcement officer who has an arrested person in
 37 custody is justified in using the same force to prevent the escape of the
 38 arrested person from custody that the officer would be justified in using
 39 if the officer was arresting that person. However, an officer is justified
 40 in using deadly force only if the officer:

41 (1) has probable cause to believe that deadly force is necessary to
 42 prevent the escape from custody of a person who the officer has



1 probable cause to believe poses a threat of serious bodily injury
 2 to the officer or a third person; and
 3 (2) has given a warning, if feasible, to the person against whom
 4 the deadly force is to be used.

5 (†) (e) A guard or other official in a penal facility or a law
 6 enforcement officer is justified in using reasonable force, including
 7 deadly force, if the officer has probable cause to believe that the force
 8 is necessary to prevent the escape of a person who is detained in the
 9 penal facility.

10 (‡) (f) Notwithstanding subsection (†); (b), (d), or (e), or (†); a
 11 guard, penal facility official, or law enforcement officer who is a
 12 defendant in a criminal prosecution has the same right as a person who
 13 is not a guard, penal facility official, or law enforcement officer to
 14 assert self-defense under ~~IC 35-41-3-2~~ **section 2 of this chapter**.

15 SECTION 4. IC 35-47-4-3, AS AMENDED BY P.L.158-2013,
 16 SECTION 589, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) This section does not apply
 18 to a law enforcement officer who is acting within the scope of the law
 19 enforcement officer's official duties or to a person who is justified in
 20 using reasonable force against another person under

21 (†) IC 35-41-3-2 **(self-defense)**. or
 22 (‡) ~~IC 35-41-3-3~~.

23 (b) A person who knowingly or intentionally points a firearm at
 24 another person commits a Level 6 felony. However, the offense is a
 25 Class A misdemeanor if the firearm was not loaded.

