

HOUSE BILL No. 1064

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-10-4; IC 35-38-2.6-1; IC 35-44.1-3-1; IC 35-47-4-5; IC 35-50-1-2.

Synopsis: Interference with law enforcement. Provides that a person commits interfering with law enforcement, a Class B misdemeanor, if the person: (1) obstructs or interferes with a law enforcement officer carrying out the officer's official duties; (2) resists, obstructs, or interferes with the service of process; or (3) enters a crime scene or similar location that is marked off with barrier tape or other markers. Increases the penalty if the person uses a vehicle, draws or uses a deadly weapon, or causes injury or death to another person. Provides that resisting or interfering with law enforcement is enhanced to a Level 6 felony if the person uses a vehicle to commit the offense. (Under current law, the felony enhancement applies only if the person flees from law enforcement using a vehicle.)

Effective: July 1, 2018.

Miller D

January 3, 2018, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1064

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 9-30-10-4, AS AMENDED BY P.L.188-2015,
2 SECTION 113, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) A person who has
4 accumulated at least two (2) judgments within a ten (10) year period
5 for any of the following violations, singularly or in combination, and
6 not arising out of the same incident, is a habitual violator:
7 (1) Reckless homicide resulting from the operation of a motor
8 vehicle.
9 (2) Voluntary or involuntary manslaughter resulting from the
10 operation of a motor vehicle.
11 (3) Failure of the operator of a motor vehicle involved in an
12 accident resulting in death or injury to any person to stop at the
13 scene of the accident and give the required information and
14 assistance.
15 (4) Operation of a vehicle while intoxicated resulting in death.
16 (5) Before July 1, 1997, operation of a vehicle with at least
17 ten-hundredths percent (0.10%) alcohol in the blood resulting in



- 1 death.
- 2 (6) After June 30, 1997, and before July 1, 2001, operation of a
- 3 vehicle with an alcohol concentration equivalent to at least
- 4 ten-hundredths (0.10) gram 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 (7) After June 30, 2001, operation of a vehicle with an alcohol
- 9 concentration equivalent to at least eight-hundredths (0.08) gram
- 10 of alcohol per:
- 11 (A) one hundred (100) milliliters of the blood; or
- 12 (B) two hundred ten (210) liters of the breath;
- 13 resulting in death.
- 14 (b) A person who has accumulated at least three (3) judgments
- 15 within a ten (10) year period for any of the following violations,
- 16 singularly or in combination, and not arising out of the same incident,
- 17 is a habitual violator:
- 18 (1) Operation of a vehicle while intoxicated.
- 19 (2) Before July 1, 1997, operation of a vehicle with at least
- 20 ten-hundredths percent (0.10%) alcohol in the blood.
- 21 (3) After June 30, 1997, and before July 1, 2001, operation of a
- 22 vehicle with an alcohol concentration equivalent to at least
- 23 ten-hundredths (0.10) gram of alcohol per:
- 24 (A) one hundred (100) milliliters of the blood; or
- 25 (B) two hundred ten (210) liters of the breath.
- 26 (4) After June 30, 2001, operation of a vehicle with an alcohol
- 27 concentration equivalent to at least eight-hundredths (0.08) gram
- 28 of alcohol per:
- 29 (A) one hundred (100) milliliters of the blood; or
- 30 (B) two hundred ten (210) liters of the breath.
- 31 (5) Reckless driving.
- 32 (6) Criminal recklessness as a felony involving the operation of
- 33 a motor vehicle.
- 34 (7) Drag racing or engaging in a speed contest in violation of law.
- 35 (8) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46
- 36 (repealed July 1, 1991), IC 9-26-1-1(1) (repealed January 1,
- 37 2015), IC 9-26-1-1(2) (repealed January 1, 2015), IC 9-26-1-2(1)
- 38 (repealed January 1, 2015), IC 9-26-1-2(2) (repealed January 1,
- 39 2015), IC 9-26-1-3 (repealed January 1, 2015), IC 9-26-1-4
- 40 (repealed January 1, 2015), or IC 9-26-1-1.1.
- 41 (9) Resisting law enforcement **or interfering with law**
- 42 **enforcement** under ~~IC 35-44-1-3-1(b)(1)(A)~~;



1 ~~IC 35-44.1-3-1(b)(2); IC 35-44.1-3-1(b)(3); or~~
 2 ~~IC 35-44.1-3-1(b)(4).~~ **IC 35-44.1-3-1(c)(1)(A),**
 3 **IC 35-44.1-3-1(c)(2), IC 35-44.1-3-1(c)(3), or**
 4 **IC 35-44.1-3-1(c)(4).**

5 (10) Any felony under this title or any felony in which the
 6 operation of a motor vehicle is an element of the offense.
 7 A judgment for a violation enumerated in subsection (a) shall be added
 8 to the violations described in this subsection for the purposes of this
 9 subsection.

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

- 16 (1) a violation enumerated in subsection (a);
 17 (2) a violation enumerated in subsection (b);
 18 (3) operating a motor vehicle while the person's license to do so
 19 has been suspended or revoked as a result of the person's
 20 conviction of an offense under IC 9-1-4-52 (repealed July 1,
 21 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-2, or
 22 IC 9-24-19-3; or
 23 (4) operating a motor vehicle without ever having obtained a
 24 license to do so.

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

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

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

35 SECTION 2. IC 35-38-2.6-1, AS AMENDED BY P.L.65-2016,
 36 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2018]: Sec. 1. (a) Except as provided in subsection (b), this
 38 chapter applies to the sentencing of a person convicted of a felony
 39 whenever any part of the sentence may not be suspended under
 40 IC 35-50-2-2.1 or IC 35-50-2-2.2.

41 (b) This chapter does not apply to persons convicted of any of the
 42 following:



- 1 (1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.
 2 (2) Any of the following felonies:
 3 (A) Murder (IC 35-42-1-1).
 4 (B) A battery offense included in IC 35-42-2 with a deadly
 5 weapon or causing death.
 6 (C) Kidnapping (IC 35-42-3-2).
 7 (D) Criminal confinement (IC 35-42-3-3) with a deadly
 8 weapon.
 9 (E) Robbery (IC 35-42-5-1) resulting in serious bodily injury
 10 or with a deadly weapon.
 11 (F) Arson (IC 35-43-1-1) for hire resulting in serious bodily
 12 injury.
 13 (G) Burglary (IC 35-43-2-1) resulting in serious bodily injury.
 14 (H) Resisting law enforcement **or interfering with law**
 15 **enforcement** (IC 35-44.1-3-1) with a deadly weapon.
 16 (I) Escape (IC 35-44.1-3-4) with a deadly weapon.
 17 (J) Rioting (IC 35-45-1-2) with a deadly weapon.
 18 (K) Aggravated battery (IC 35-42-2-1.5).
 19 (L) Disarming a law enforcement officer (IC 35-44.1-3-2).
 20 (3) An offense under IC 9-30-5-4.
 21 (4) An offense under IC 9-30-5-5.

22 SECTION 3. IC 35-44.1-3-1, AS AMENDED BY P.L.198-2016,
 23 SECTION 673, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) A person who knowingly or
 25 intentionally:

- 26 (1) forcibly resists, obstructs, or interferes with a law enforcement
 27 officer or a person assisting the officer while the officer is
 28 lawfully engaged in the execution of the officer's duties;
 29 (2) forcibly resists, obstructs, or interferes with the authorized
 30 service or execution of a civil or criminal process or order of a
 31 court; or
 32 (3) flees from a law enforcement officer after the officer has, by
 33 visible or audible means, including operation of the law
 34 enforcement officer's siren or emergency lights, identified himself
 35 or herself and ordered the person to stop;
 36 commits resisting law enforcement, a Class A misdemeanor, except as
 37 provided in ~~subsection (b)~~: **subsection (c)**.

38 **(b) A person who knowingly or intentionally:**

- 39 **(1) obstructs or interferes with a law enforcement officer or**
 40 **a person assisting the officer while the officer is lawfully**
 41 **engaged in the execution of the officer's duties;**
 42 **(2) resists, obstructs, or interferes with the authorized service**



1 or execution of a civil or criminal process or order of a court;
 2 or
 3 **(3) without authorization, enters an area that:**
 4 **(A) is marked off by law enforcement with barrier tape,**
 5 **flags, barricades, or other markers; and**
 6 **(B) is a:**
 7 **(i) crime scene;**
 8 **(ii) location where an individual is being arrested; or**
 9 **(iii) location in which a law enforcement investigation is**
 10 **being conducted;**
 11 **commits interfering with law enforcement, a Class B misdemeanor,**
 12 **except as provided in subsection (c).**
 13 ~~(b)~~ **(c)** The offense under subsection (a) **or (b)** is a:
 14 (1) Level 6 felony if:
 15 (A) ~~the offense is described in subsection (a)(3) and~~ the person
 16 uses a vehicle to commit the offense; or
 17 (B) while committing ~~any the offense, described in subsection~~
 18 ~~(a)~~; the person draws or uses a deadly weapon, inflicts bodily
 19 injury on or otherwise causes bodily injury to another person,
 20 or operates a vehicle in a manner that creates a substantial risk
 21 of bodily injury to another person;
 22 (2) Level 5 felony if, while committing ~~any the offense, described~~
 23 ~~in subsection (a)~~; the person operates a vehicle in a manner that
 24 causes serious bodily injury to another person;
 25 (3) Level 3 felony if, while committing ~~any the offense, described~~
 26 ~~in subsection (a)~~; the person operates a vehicle in a manner that
 27 causes the death of another person; and
 28 (4) Level 2 felony if, while committing any offense described in
 29 subsection (a), the person operates a vehicle in a manner that
 30 causes the death of a law enforcement officer while the law
 31 enforcement officer is engaged in the officer's official duties.
 32 ~~(c)~~ **(d)** If a person uses a vehicle to commit a felony offense under
 33 subsection ~~(b)(1)(B), (b)(2), (b)(3), or (b)(4)~~ **(c)(1)(B), (c)(2), (c)(3),**
 34 **or (c)(4)**, as part of the criminal penalty imposed for the offense, the
 35 court shall impose a minimum executed sentence of at least:
 36 (1) thirty (30) days, if the person does not have a prior unrelated
 37 conviction under this section;
 38 (2) one hundred eighty (180) days, if the person has one (1) prior
 39 unrelated conviction under this section; or
 40 (3) one (1) year, if the person has two (2) or more prior unrelated
 41 convictions under this section.
 42 ~~(d)~~ **(e)** Notwithstanding IC 35-50-2-2.2 and IC 35-50-3-1, the



1 mandatory minimum sentence imposed under subsection ~~(e)~~ (d) may
2 not be suspended.

3 ~~(e)~~ (f) If a person is convicted of an offense involving the use of a
4 motor vehicle under:

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

8 (2) ~~subsection (b)(2)~~ **subsection (c)(2)**; or

9 (3) ~~subsection (b)(3)~~ **subsection (c)(3)**;

10 the court may notify the bureau of motor vehicles to suspend or revoke
11 the person's driver's license and all certificates of registration and
12 license plates issued or registered in the person's name in accordance
13 with IC 9-30-4-6.1(b)(3) for the period described in IC 9-30-4-6.1(d)(1)
14 or IC 9-30-4-6.1(d)(2). The court shall inform the bureau whether the
15 person has been sentenced to a term of incarceration. At the time of
16 conviction, the court may obtain the person's current driver's license
17 and return the license to the bureau of motor vehicles.

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

21 SECTION 4. IC 35-47-4-5, AS AMENDED BY P.L.252-2017,
22 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2018]: Sec. 5. (a) As used in this section, "serious violent
24 felon" means a person who has been convicted of:

25 (1) committing a serious violent felony in:

26 (A) Indiana; or

27 (B) any other jurisdiction in which the elements of the crime
28 for which the conviction was entered are substantially similar
29 to the elements of a serious violent felony; or

30 (2) attempting to commit or conspiring to commit a serious
31 violent felony in:

32 (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;

33 or

34 (B) any other jurisdiction in which the elements of the crime
35 for which the conviction was entered are substantially similar
36 to the elements of attempting to commit or conspiring to
37 commit a serious violent felony.

38 (b) As used in this section, "serious violent felony" means:

39 (1) murder (IC 35-42-1-1);

40 (2) voluntary manslaughter (IC 35-42-1-3);

41 (3) reckless homicide not committed by means of a vehicle
42 (IC 35-42-1-5);



- 1 (4) battery (IC 35-42-2-1) as a:
 2 (A) Class A felony, Class B felony, or Class C felony, for a
 3 crime committed before July 1, 2014; or
 4 (B) Level 2 felony, Level 3 felony, Level 4 felony, or Level 5
 5 felony, for a crime committed after June 30, 2014;
 6 (5) domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level
 7 3 felony, Level 4 felony, or Level 5 felony;
 8 (6) aggravated battery (IC 35-42-2-1.5);
 9 (7) kidnapping (IC 35-42-3-2);
 10 (8) criminal confinement (IC 35-42-3-3);
 11 (9) rape (IC 35-42-4-1);
 12 (10) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
 13 (11) child molesting (IC 35-42-4-3);
 14 (12) sexual battery (IC 35-42-4-8) as a:
 15 (A) Class C felony, for a crime committed before July 1, 2014;
 16 or
 17 (B) Level 5 felony, for a crime committed after June 30, 2014;
 18 (13) robbery (IC 35-42-5-1);
 19 (14) carjacking (IC 35-42-5-2) (before its repeal);
 20 (15) arson (IC 35-43-1-1(a)) as a:
 21 (A) Class A felony or Class B felony, for a crime committed
 22 before July 1, 2014; or
 23 (B) Level 2 felony, Level 3 felony, or Level 4 felony, for a
 24 crime committed after June 30, 2014;
 25 (16) burglary (IC 35-43-2-1) as a:
 26 (A) Class A felony or Class B felony, for a crime committed
 27 before July 1, 2014; or
 28 (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4
 29 felony, for a crime committed after June 30, 2014;
 30 (17) assisting a criminal (IC 35-44.1-2-5) as a:
 31 (A) Class C felony, for a crime committed before July 1, 2014;
 32 or
 33 (B) Level 5 felony, for a crime committed after June 30, 2014;
 34 (18) resisting law enforcement **or interfering with law**
 35 **enforcement** (IC 35-44.1-3-1) as a:
 36 (A) Class B felony or Class C felony, for a crime committed
 37 before July 1, 2014; or
 38 (B) Level 2 felony, Level 3 felony, or Level 5 felony, for a
 39 crime committed after June 30, 2014;
 40 (19) escape (IC 35-44.1-3-4) as a:
 41 (A) Class B felony or Class C felony, for a crime committed
 42 before July 1, 2014; or



- 1 (B) Level 4 felony or Level 5 felony, for a crime committed
 2 after June 30, 2014;
- 3 (20) trafficking with an inmate (IC 35-44.1-3-5) as a:
- 4 (A) Class C felony, for a crime committed before July 1, 2014;
- 5 or
- 6 (B) Level 5 felony, for a crime committed after June 30, 2014;
- 7 (21) criminal organization intimidation (IC 35-45-9-4);
- 8 (22) stalking (IC 35-45-10-5) as a:
- 9 (A) Class B felony or Class C felony, for a crime committed
 10 before July 1, 2014; or
- 11 (B) Level 4 felony or Level 5 felony, for a crime committed
 12 after June 30, 2014;
- 13 (23) incest (IC 35-46-1-3);
- 14 (24) dealing in or manufacturing cocaine or a narcotic drug
 15 (IC 35-48-4-1);
- 16 (25) dealing in methamphetamine (IC 35-48-4-1.1) or
 17 manufacturing methamphetamine (IC 35-48-4-1.2);
- 18 (26) dealing in a schedule I, II, or III controlled substance
 19 (IC 35-48-4-2);
- 20 (27) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- 21 or
- 22 (28) dealing in a schedule V controlled substance (IC 35-48-4-4).
- 23 (c) A serious violent felon who knowingly or intentionally possesses
 24 a firearm commits unlawful possession of a firearm by a serious violent
 25 felon, a Level 4 felony.
- 26 SECTION 5. IC 35-50-1-2, AS AMENDED BY P.L.13-2016,
 27 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2018]: Sec. 2. (a) As used in this section, "crime of violence"
 29 means the following:
- 30 (1) Murder (IC 35-42-1-1).
- 31 (2) Attempted murder (IC 35-41-5-1).
- 32 (3) Voluntary manslaughter (IC 35-42-1-3).
- 33 (4) Involuntary manslaughter (IC 35-42-1-4).
- 34 (5) Reckless homicide (IC 35-42-1-5).
- 35 (6) Aggravated battery (IC 35-42-2-1.5).
- 36 (7) Kidnapping (IC 35-42-3-2).
- 37 (8) Rape (IC 35-42-4-1).
- 38 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 39 (10) Child molesting (IC 35-42-4-3).
- 40 (11) Sexual misconduct with a minor as a Level 1 felony under
 41 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
- 42 (12) Robbery as a Level 2 felony or a Level 3 felony



- 1 (IC 35-42-5-1).
 2 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 3 or Level 4 felony (IC 35-43-2-1).
 4 (14) Operating a vehicle while intoxicated causing death
 5 (IC 9-30-5-5).
 6 (15) Operating a vehicle while intoxicated causing serious bodily
 7 injury to another person (IC 9-30-5-4).
 8 (16) Child exploitation as a Level 5 felony under IC 35-42-4-4(b)
 9 or a Level 4 felony under IC 35-42-4-4(c).
 10 (17) Resisting law enforcement **or interfering with law**
 11 **enforcement** as a felony (IC 35-44.1-3-1).
 12 (18) Unlawful possession of a firearm by a serious violent felon
 13 (IC 35-47-4-5).
 14 (b) As used in this section, "episode of criminal conduct" means
 15 offenses or a connected series of offenses that are closely related in
 16 time, place, and circumstance.
 17 (c) Except as provided in subsection (e) or (f), the court shall
 18 determine whether terms of imprisonment shall be served concurrently
 19 or consecutively. The court may consider the:
 20 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
 21 (2) mitigating circumstances in IC 35-38-1-7.1(b);
 22 in making a determination under this subsection. The court may order
 23 terms of imprisonment to be served consecutively even if the sentences
 24 are not imposed at the same time. However, except for crimes of
 25 violence, the total of the consecutive terms of imprisonment, exclusive
 26 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10
 27 (before its repeal) to which the defendant is sentenced for felony
 28 convictions arising out of an episode of criminal conduct shall not
 29 exceed the period described in subsection (d).
 30 (d) Except as provided in subsection (c), the total of the consecutive
 31 terms of imprisonment to which the defendant is sentenced for felony
 32 convictions arising out of an episode of criminal conduct may not
 33 exceed the following:
 34 (1) If the most serious crime for which the defendant is sentenced
 35 is a Level 6 felony, the total of the consecutive terms of
 36 imprisonment may not exceed four (4) years.
 37 (2) If the most serious crime for which the defendant is sentenced
 38 is a Level 5 felony, the total of the consecutive terms of
 39 imprisonment may not exceed seven (7) years.
 40 (3) If the most serious crime for which the defendant is sentenced
 41 is a Level 4 felony, the total of the consecutive terms of
 42 imprisonment may not exceed fifteen (15) years.



- 1 (4) If the most serious crime for which the defendant is sentenced
2 is a Level 3 felony, the total of the consecutive terms of
3 imprisonment may not exceed twenty (20) years.
- 4 (5) If the most serious crime for which the defendant is sentenced
5 is a Level 2 felony, the total of the consecutive terms of
6 imprisonment may not exceed thirty-two (32) years.
- 7 (6) If the most serious crime for which the defendant is sentenced
8 is a Level 1 felony, the total of the consecutive terms of
9 imprisonment may not exceed forty-two (42) years.
- 10 (e) If, after being arrested for one (1) crime, a person commits
11 another crime:
- 12 (1) before the date the person is discharged from probation,
13 parole, or a term of imprisonment imposed for the first crime; or
14 (2) while the person is released:
- 15 (A) upon the person's own recognizance; or
16 (B) on bond;
- 17 the terms of imprisonment for the crimes shall be served consecutively,
18 regardless of the order in which the crimes are tried and sentences are
19 imposed.
- 20 (f) If the factfinder determines under IC 35-50-2-11 that a person
21 used a firearm in the commission of the offense for which the person
22 was convicted, the term of imprisonment for the underlying offense and
23 the additional term of imprisonment imposed under IC 35-50-2-11
24 must be served consecutively.

