



February 16, 2021

HOUSE BILL No. 1097

DIGEST OF HB 1097 (Updated February 16, 2021 12:41 pm - DI 131)

Citations Affected: IC 9-30; IC 35-44.1.

Synopsis: Criminal penalties. Provides that a person who resists law enforcement by operating a vehicle in a manner that creates a substantial risk of bodily injury to another person commits a Level 5 felony. Provides that a person who resists law enforcement by operating a vehicle in a manner that causes serious bodily injury to another person commits a Level 4 felony, if that person has a prior conviction for resisting law enforcement.

Effective: Upon passage.

Abbott

January 7, 2021, read first time and referred to Committee on Courts and Criminal Code.
February 16, 2021, amended, reported — Do Pass.

HB 1097—LS 6828/DI 139



February 16, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1097

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.201-2019,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 4. (a) A person who has accumulated at least
4 two (2) judgments within a ten (10) year period for any of the following
5 violations, singularly or in combination, and not arising out of the same
6 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

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- 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 under IC 35-44.1-3-1(c)(1)(A),
- 42 IC 35-44.1-3-1(c)(2), IC 35-44.1-3-1(c)(3), or



1 IC 35-44.1-3-1(c)(4), or IC 35-44.1-3-1(c)(5).

2 (10) Any felony under this title or any felony in which the
3 operation of a motor vehicle is an element of the offense.

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

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

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

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

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

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

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

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

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

32 SECTION 2. IC 35-44.1-3-1, AS AMENDED BY THE
33 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
34 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 UPON PASSAGE]: Sec. 1. (a) A person who knowingly or
36 intentionally:

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

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



1 (3) flees from a law enforcement officer after the officer has, by
 2 visible or audible means, including operation of the law
 3 enforcement officer's siren or emergency lights, identified himself
 4 or herself and ordered the person to stop;
 5 commits resisting law enforcement, a Class A misdemeanor, except as
 6 provided in subsection (c).

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

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

13 (1) Level 6 felony if:

14 (A) the person uses a vehicle to commit the offense; or

15 (B) while committing the offense, the person draws or uses a
 16 deadly weapon, inflicts bodily injury on or otherwise causes
 17 bodily injury to another person; ~~or operates a vehicle in a~~
 18 ~~manner that creates a substantial risk of bodily injury to~~
 19 ~~another person;~~

20 (2) Level 5 felony if, while committing the offense, the person
 21 operates a vehicle in a manner that **creates a substantial risk of**
 22 **bodily injury to another person or otherwise** causes serious
 23 bodily injury to another person;

24 **(3) Level 4 felony if, while committing the offense, the person**
 25 **operates a vehicle in a manner that causes serious bodily**
 26 **injury to another person and the person has a prior conviction**
 27 **under this section;**

28 ~~(4)~~ **(4)** Level 3 felony if, while committing the offense, the person
 29 operates a vehicle in a manner that causes the death or
 30 catastrophic injury of another person; and

31 ~~(5)~~ **(5)** Level 2 felony if, while committing any offense described
 32 in subsection (a), the person operates a vehicle in a manner that
 33 causes the death or catastrophic injury of an emergency medical
 34 services provider or a law enforcement officer while the
 35 emergency medical services provider or law enforcement officer
 36 is engaged in the emergency medical services provider's or
 37 officer's official duties.

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

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

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



- 1 (B) has two (2) or more prior unrelated convictions under
 2 subsection (a); or
 3 (2) subsection (a)(3), the person has two (2) or more prior
 4 unrelated convictions under subsection (a).
 5 (e) If a person uses a vehicle to commit a felony offense under
 6 subsection (c)(1)(B), (c)(2), (c)(3), ~~or~~ (c)(4), **or (c)(5)**, as part of the
 7 criminal penalty imposed for the offense, the court shall impose a
 8 minimum executed sentence of at least:
 9 (1) thirty (30) days, if the person does not have a prior unrelated
 10 conviction under this section;
 11 (2) one hundred eighty (180) days, if the person has one (1) prior
 12 unrelated conviction under this section; or
 13 (3) one (1) year, if the person has two (2) or more prior unrelated
 14 convictions under this section.
 15 (f) Notwithstanding IC 35-50-2-2.2 and IC 35-50-3-1, the mandatory
 16 minimum sentence imposed under subsection (e) may not be
 17 suspended.
 18 (g) If a person is convicted of an offense involving the use of a
 19 motor vehicle under:
 20 (1) subsection (c)(1)(A), if the person exceeded the speed limit by
 21 at least twenty (20) miles per hour while committing the offense;
 22 (2) subsection (c)(2); ~~or~~
 23 (3) subsection (c)(3); **or**
 24 **(4) subsection (c)(4);**
 25 the court may notify the bureau of motor vehicles to suspend or revoke
 26 the person's driver's license and all certificates of registration and
 27 license plates issued or registered in the person's name in accordance
 28 with ~~IC 9-30-4-6.1(b)(3)~~ **IC 9-30-4-6.1(b)** for the period described in
 29 IC 9-30-4-6.1(d)(1) or IC 9-30-4-6.1(d)(2). The court shall inform the
 30 bureau whether the person has been sentenced to a term of
 31 incarceration. At the time of conviction, the court may obtain the
 32 person's current driver's license and return the license to the bureau of
 33 motor vehicles.
 34 (h) A person may not be charged or convicted of a crime under
 35 subsection (a)(3) if the law enforcement officer is a school resource
 36 officer acting in the officer's capacity as a school resource officer.
 37 (i) A person who commits an offense described in subsection (c)
 38 commits a separate offense for each person whose bodily injury,
 39 serious bodily injury, catastrophic injury, or death is caused by a
 40 violation of subsection (c).
 41 (j) A court may order terms of imprisonment imposed on a person
 42 convicted of more than one (1) offense described in subsection (c) to



1 run consecutively. Consecutive terms of imprisonment imposed under
2 this subsection are not subject to the sentencing restrictions set forth in
3 IC 35-50-1-2(c) through IC 35-50-1-2(d).

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

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

9 (2) had suffered bodily injury or was at risk of suffering bodily
10 injury;

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

14 **SECTION 3. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1097, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE UPON PASSAGE]".

Replace the effective date in SECTION 3 with "[EFFECTIVE UPON PASSAGE]".

Page 3, delete lines 32 through 42.

Page 4, delete lines 1 through 13.

Page 5, line 6, delete "creates a substantial risk".

Page 5, line 7, delete "of bodily injury to another person or otherwise".

Page 6, after line 37, begin a new paragraph and insert:

"SECTION 3. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1097 as introduced.)

MCNAMARA

Committee Vote: yeas 8, nays 3.

