



Reprinted
February 19, 2021

HOUSE BILL No. 1097

DIGEST OF HB 1097 (Updated February 18, 2021 4:33 pm - DI 131)

Citations Affected: IC 35-44.1.

Synopsis: Criminal penalties. Provides that a person who commits the offense of resisting law enforcement or interfering with public safety and has a prior conviction for either offense commits a Level 5 felony.

Effective: Upon passage.

**Abbott, McNamara, Carbaugh,
Morris**

January 7, 2021, read first time and referred to Committee on Courts and Criminal Code.
February 16, 2021, amended, reported — Do Pass.
February 18, 2021, read second time, amended, ordered engrossed.

HB 1097—LS 6828/DI 139



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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 35-44.1-3-1, AS AMENDED BY THE
2 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
3 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 1. (a) A person who knowingly or
5 intentionally:
6 (1) forcibly resists, obstructs, or interferes with a law enforcement
7 officer or a person assisting the officer while the officer is
8 lawfully engaged in the execution of the officer's duties;
9 (2) forcibly resists, obstructs, or interferes with the authorized
10 service or execution of a civil or criminal process or order of a
11 court; or
12 (3) flees from a law enforcement officer after the officer has, by
13 visible or audible means, including operation of the law
14 enforcement officer's siren or emergency lights, identified himself
15 or herself and ordered the person to stop;
16 commits resisting law enforcement, a Class A misdemeanor, except as
17 provided in subsection (c).

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

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

7 (1) Level 6 felony if:

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

9 (B) while committing the offense, the person draws or uses a
 10 deadly weapon, inflicts bodily injury on or otherwise causes
 11 bodily injury to another person, or operates a vehicle in a
 12 manner that creates a substantial risk of bodily injury to
 13 another person;

14 (2) Level 5 felony if, while committing the offense, the person
 15 operates a vehicle in a manner that causes serious bodily injury to
 16 another person **or the person has a prior conviction under this**
 17 **section;**

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

21 (4) Level 2 felony if, while committing any offense described in
 22 subsection (a), the person operates a vehicle in a manner that
 23 causes the death or catastrophic injury of an emergency medical
 24 services provider or a law enforcement officer while the
 25 emergency medical services provider or law enforcement officer
 26 is engaged in the emergency medical services provider's or
 27 officer's official duties.

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

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

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

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

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

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

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



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

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

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

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

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

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

13 (3) subsection (c)(3);

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

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

26 (i) A person who commits an offense described in subsection (c)
27 commits a separate offense for each person whose bodily injury,
28 serious bodily injury, catastrophic injury, or death is caused by a
29 violation of subsection (c).

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

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

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

40 (2) had suffered bodily injury or was at risk of suffering bodily
41 injury;

42 if the person is not charged as a defendant in connection with the



1 offense, if applicable, that caused the area to be secured by barrier tape
2 or other physical barriers.

3 SECTION 2. **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.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1097 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 31.

Page 4, line 17, delete "person;" and insert "person,".

Page 4, line 17, reset in roman "or operates a vehicle in a".

Page 4, line 18, reset in roman "manner that creates a substantial risk of bodily injury to".

Page 4, line 19, reset in roman "another person;".

Page 4, line 21, delete "creates a substantial risk of".

Page 4, line 22, delete "bodily injury to another person or otherwise".

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Page 4, line 23, delete "person;" and insert "person **or the person has a prior conviction under this section;**".

Page 4, delete lines 24 through 27.

Page 4, line 28, reset in roman "(3)".

Page 4, line 28, delete "(4)".

Page 4, line 31, reset in roman "(4)".

Page 4, line 31, delete "(5)".

Page 5, line 6, after "(c)(3)," reset in roman "or".

Page 5, line 6, delete "or (c)(5)".

Page 5, line 22, reset in roman "or".

Page 5, line 23, delete "or".

Page 5, delete line 24.

Re-number all SECTIONS consecutively.

(Reference is to HB 1097 as printed February 16, 2021.)

ABBOTT

