

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1114

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-30-10-4, AS AMENDED BY P.L.188-2015, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) A person who has accumulated at least two (2) judgments within a ten (10) year period for any of the following violations, singularly or in combination, and not arising out of the same incident, is a habitual violator:

- (1) Reckless homicide resulting from the operation of a motor vehicle.
- (2) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.
- (3) Failure of the operator of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance.
- (4) Operation of a vehicle while intoxicated resulting in death.
- (5) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death.
- (6) After June 30, 1997, and before July 1, 2001, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

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(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath;

resulting in death.

(7) After June 30, 2001, operation of a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath;

resulting in death.

(b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, and not arising out of the same incident, is a habitual violator:

(1) Operation of a vehicle while intoxicated.

(2) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood.

(3) After June 30, 1997, and before July 1, 2001, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

(4) After June 30, 2001, operation of a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

(5) Reckless driving.

(6) Criminal recklessness as a felony involving the operation of a motor vehicle.

(7) Drag racing or engaging in a speed contest in violation of law.

(8) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1) (repealed January 1, 2015), IC 9-26-1-1(2) (repealed January 1, 2015), IC 9-26-1-2(1) (repealed January 1, 2015), IC 9-26-1-2(2) (repealed January 1, 2015), IC 9-26-1-3 (repealed January 1, 2015), IC 9-26-1-4 (repealed January 1, 2015), or IC 9-26-1-1.1.

(9) Resisting law enforcement under ~~IC 35-44.1-3-1(b)(1)(A)~~; ~~IC 35-44.1-3-1(b)(2)~~; ~~IC 35-44.1-3-1(b)(3)~~; or ~~IC 35-44.1-3-1(b)(4)~~. **IC 35-44.1-3-1(c)(1)(A), IC 35-44.1-3-1(c)(2), IC 35-44.1-3-1(c)(3), or IC 35-44.1-3-1(c)(4).**

(10) Any felony under this title or any felony in which the



operation of a motor vehicle is an element of the offense. A judgment for a violation enumerated in subsection (a) shall be added to the violations described in this subsection for the purposes of this subsection.

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

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

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

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

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

SECTION 2. IC 35-31.5-2-127.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 127.8. "Family member", for purposes of IC 35-44.1-3-1, has the meaning set forth in IC 35-44.1-3-1.

SECTION 3. IC 35-44.1-3-1, AS AMENDED BY P.L.198-2016, SECTION 673, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A person who knowingly or intentionally:

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



service or execution of a civil or criminal process or order of a court; or

(3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in ~~subsection (b)~~: **subsection (c)**.

(b) A person who, having been denied entry by a law enforcement officer, knowingly or intentionally enters an area that is marked off with barrier tape or other physical barriers, commits interfering with law enforcement, a Class B misdemeanor, except as provided in subsection (c) or (h).

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

(1) Level 6 felony if:

(A) ~~the offense is described in subsection (a)(3) and~~ the person uses a vehicle to commit the offense; or

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

(2) Level 5 felony if, while committing ~~any the~~ offense, ~~described in subsection (a)~~; the person operates a vehicle in a manner that causes serious bodily injury to another person;

(3) Level 3 felony if, while committing ~~any the~~ offense, ~~described in subsection (a)~~; the person operates a vehicle in a manner that causes the death of another person; and

(4) Level 2 felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of a law enforcement officer while the law enforcement officer is engaged in the officer's official duties.

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

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

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

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



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

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

- (1) ~~subsection (b)(1)(A);~~ **subsection (c)(1)(A)**, if the person exceeded the speed limit by at least twenty (20) miles per hour while committing the offense;
- (2) ~~subsection (b)(2);~~ **subsection (c)(2);** or
- (3) ~~subsection (b)(3);~~ **subsection (c)(3);**

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

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

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

- (1) was in the marked off area; and**
- (2) had suffered bodily injury or was at risk of suffering bodily injury;**

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



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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