

HOUSE BILL No. 1243

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-10-4; IC 35-44.1-3-1.

Synopsis: Resisting law enforcement. Provides that the offense of resisting law enforcement is a Level 5 felony if the person has two or more prior unrelated convictions for resisting law enforcement. Makes conforming amendments.

Effective: July 1, 2018.

DeVon, McNamara, Morris

January 16, 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. 1243



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 under IC 35-44.1-3-1(b)(1)(A),
- 42 ~~IC 35-44.1-3-1(b)(2); IC 35-44.1-3-1(b)(2)(A),~~



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

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 P.L.198-2016,
33 SECTION 673, IS AMENDED TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) A person who knowingly or
35 intentionally:

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

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

42 (3) flees from a law enforcement officer after the officer has, by



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

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

7 (1) Level 6 felony if:

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

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

15 (2) Level 5 felony if:

16 (A) while committing any offense described in subsection (a),
 17 the person operates a vehicle in a manner that causes serious
 18 bodily injury to another person; **or**

19 (B) **the person has two (2) or more prior unrelated**
 20 **convictions for resisting law enforcement;**

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

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

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

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

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

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

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

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



1 (1) subsection (b)(1)(A), if the person exceeded the speed limit by
2 at least twenty (20) miles per hour while committing the offense;
3 (2) subsection ~~(b)(2)~~; **(b)(2)(A)**; or
4 (3) subsection (b)(3);
5 the court may notify the bureau of motor vehicles to suspend or revoke
6 the person's driver's license and all certificates of registration and
7 license plates issued or registered in the person's name in accordance
8 with IC 9-30-4-6.1(b)(3) for the period described in IC 9-30-4-6.1(d)(1)
9 or IC 9-30-4-6.1(d)(2). The court shall inform the bureau whether the
10 person has been sentenced to a term of incarceration. At the time of
11 conviction, the court may obtain the person's current driver's license
12 and return the license to the bureau of motor vehicles.
13 (f) A person may not be charged or convicted of a crime under
14 subsection (a)(3) if the law enforcement officer is a school resource
15 officer acting in the officer's capacity as a school resource officer.

