



Reprinted  
January 30, 2024

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## HOUSE BILL No. 1418

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DIGEST OF HB 1418 (Updated January 29, 2024 4:45 pm - DI 106)

**Citations Affected:** IC 35-31.5; IC 35-33.

**Synopsis:** Forensic diversion and drug courts. Provides that a pregnant woman charged with a drug crime may be referred to a forensic diversion program or a drug court at an initial hearing.

**Effective:** July 1, 2024.

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### Goss-Reaves, McNamara

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January 16, 2024, read first time and referred to Committee on Courts and Criminal Code.  
January 25, 2024, reported — Do Pass.  
January 29, 2024, read second time, amended, ordered engrossed.

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HB 1418—LS 7061/DI 107





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Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

## HOUSE BILL No. 1418

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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 35-31.5-2-105.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2024]: **Sec. 105.5. "Drug crime", for**  
4 **purposes of IC 35-33-7-5, means one (1) or more of the following**  
5 **offenses:**  
6 (1) **Dealing in cocaine or narcotic drug (IC 35-48-4-1).**  
7 (2) **Dealing in methamphetamine (IC 35-48-4-1.1).**  
8 (3) **Manufacturing methamphetamine (IC 35-48-4-1.2).**  
9 (4) **Dealing in a controlled substance by a practitioner**  
10 **(IC 35-48-4-1.5).**  
11 (5) **Dealing in a schedule I, II, or III controlled substance or**  
12 **controlled substance analog (IC 35-48-4-2).**  
13 (6) **Dealing in a schedule IV controlled substance or controlled**  
14 **substance analog (IC 35-48-4-3).**  
15 (7) **Dealing in a schedule V controlled substance or controlled**  
16 **substance analog (IC 35-48-4-4).**  
17 (8) **Dumping controlled substance waste (IC 35-48-4-4.1).**

HB 1418—LS 7061/DI 107



1           **(9) Possession of cocaine or narcotic drug (IC 35-48-4-6).**

2           **(10) Possession of methamphetamine (IC 35-48-4-6.1).**

3           **(11) Possession of a controlled substance or controlled**  
 4           **substance analog; obtaining a schedule V controlled substance**  
 5           **(IC 35-48-4-7).**

6           **(12) Dealing in marijuana, hash oil, hashish, or salvia**  
 7           **(IC 35-48-4-10).**

8           **(13) Dealing in smokable hemp (IC 35-48-4-10.1).**

9           **(14) Possession of marijuana, hash oil, hashish, or salvia**  
 10           **(IC 35-48-4-11).**

11           SECTION 2. IC 35-33-7-3 IS AMENDED TO READ AS  
 12           FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) When a person  
 13           is arrested for a crime before a formal charge has been filed, an  
 14           information or indictment shall be filed or be prepared to be filed at or  
 15           before the initial hearing, unless the prosecuting attorney has informed  
 16           the court that there will be no charges filed in the case.

17           (b) If the prosecuting attorney states that more time is required to  
 18           evaluate the case and determine whether a charge should be filed, or if  
 19           it is necessary to transfer the person to another court, then the court  
 20           shall recess or continue the initial hearing for up to seventy-two (72)  
 21           hours, excluding intervening Saturdays, Sundays, and legal holidays.

22           (c) Before recessing the initial hearing and after the ex parte  
 23           probable cause determination has been made, the court shall inform a  
 24           defendant charged with a felony of the rights specified in ~~subdivisions~~  
 25           ~~(1), (2), (3), (4), and (5)~~ of ~~section 5~~ **section 5(a)(1), 5(a)(2), 5(a)(3),**  
 26           **5(a)(4), and 5(a)(5)** of this chapter.

27           SECTION 3. IC 35-33-7-5, AS AMENDED BY P.L.46-2018,  
 28           SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29           JULY 1, 2024]: Sec. 5. **(a)** At the initial hearing of a person, the  
 30           judicial officer shall inform the person orally or in writing:

31           (1) that the person has a right to retain counsel and if the person  
 32           intends to retain counsel the person must do so within:

33           (A) twenty (20) days if the person is charged with a felony; or

34           (B) ten (10) days if the person is charged only with one (1) or  
 35           more misdemeanors;

36           after this initial hearing because there are deadlines for filing  
 37           motions and raising defenses, and if those deadlines are missed,  
 38           the legal issues and defenses that could have been raised will be  
 39           waived;

40           (2) that the person has a right to assigned counsel at no expense  
 41           to the person if the person is indigent;

42           (3) that the person has a right to a speedy trial;



- 1 (4) of the amount and conditions of bail;  
 2 (5) of the person's privilege against self-incrimination;  
 3 (6) of the nature of the charge against the person;  
 4 (7) that a preliminary plea of not guilty is being entered for the  
 5 person and the preliminary plea of not guilty will become a formal  
 6 plea of not guilty:  
 7 (A) twenty (20) days after the completion of the initial  
 8 hearing; or  
 9 (B) ten (10) days after the completion of the initial hearing if  
 10 the person is charged only with one (1) or more  
 11 misdemeanors;  
 12 unless the defendant enters a different plea; and  
 13 (8) that the person may request to petition for a specialized  
 14 driving privileges hearing if the person is charged with:  
 15 (A) any offense in which the operation of a motor vehicle is an  
 16 element of the offense;  
 17 (B) any offense under IC 9-30-5, IC 35-46-9, or IC 14-15-8  
 18 (before its repeal); or  
 19 (C) any offense under IC 35-42-1, IC 35-42-2, or  
 20 IC 35-44.1-3-1 that involves the use of a vehicle.
- 21 In addition, the judge shall direct the prosecuting attorney to give the  
 22 defendant or the defendant's attorney a copy of any formal felony  
 23 charges filed or ready to be filed. The judge shall, upon request of the  
 24 defendant, direct the prosecuting attorney to give the defendant or the  
 25 defendant's attorney a copy of any formal misdemeanor charges filed  
 26 or ready to be filed.
- 27 **(b) This subsection applies to a pregnant woman charged with**  
 28 **a drug crime. If the woman is otherwise qualified, the judge may,**  
 29 **after consulting with the prosecuting attorney, refer the woman to**  
 30 **the forensic diversion program (IC 11-12-3.7) or a drug court**  
 31 **(IC 33-23-16).**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1418, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1418 as introduced.)

MCNAMARA

Committee Vote: Yeas 12, Nays 0

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1418 be amended to read as follows:

Page 3, line 28, delete "may" and insert "**may, after consulting with the prosecuting attorney,**".

(Reference is to HB 1418 as printed January 25, 2024.)

GOSS-REAVES

