



Reprinted
February 20, 2019

SENATE BILL No. 12

DIGEST OF SB 12 (Updated February 19, 2019 5:26 pm - DI 106)

Citations Affected: IC 35-38; noncode.

Synopsis: Sentencing and bias crimes. Provides that a court may consider bias in imposing a criminal sentence. Specifies the manner in which bias crime data shall be reported to the state police department.

Effective: July 1, 2019.

**Bohacek, Alting, Taylor G,
Randolph Lonnie M**

January 3, 2019, read first time and referred to Committee on Rules and Legislative Procedure.
February 14, 2019, reassigned to Committee on Public Policy pursuant to Rule 68(b).
February 18, 2019, amended, reported favorably — Do Pass.
February 19, 2019, read second time, amended, ordered engrossed.

SB 12—LS 6063/DI 131



Reprinted
February 20, 2019

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.

SENATE BILL No. 12

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 10-13-3-38 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 38. (a) ~~A~~ **Each** law
3 enforcement agency shall collect information concerning bias crimes.
4 (b) At least two (2) times each year, ~~a~~ **each** law enforcement agency
5 shall submit information collected under subsection (a) to the Indiana
6 central repository for criminal history information ~~Information shall be~~
7 ~~reported in the manner and form prescribed~~ **using the National**
8 **Incident Based Reporting System (NIBRS) format as required by**
9 the department.
10 (c) **Each law enforcement agency shall submit data regarding**
11 **the commission of bias crimes to the Indiana central repository for**
12 **criminal history in accordance with guidelines established by the**
13 **Federal Bureau of Investigation under 28 U.S.C. 534.**
14 (d) At least one (1) time each year, the Indiana central repository
15 for criminal history information shall submit a report that includes a
16 compilation of information obtained under subsection (b) to each law
17 enforcement agency and to the legislative council. A report submitted

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1 to a law enforcement agency and the legislative council under this
2 subsection may not contain the name of a person who:

- 3 (1) committed or allegedly committed a bias crime; or
- 4 (2) was the victim or the alleged victim of a bias crime.

5 A report submitted to the legislative council under this subsection must
6 be in an electronic format under IC 5-14-6.

7 ~~(d)~~ **(e)** Except as provided in subsection ~~(e)~~; **(f)**, information
8 collected, submitted, and reported under this section must be consistent
9 with guidelines established for the acquisition, preservation, and
10 exchange of identification records and information by:

- 11 (1) the Attorney General of the United States; or
- 12 (2) the Federal Bureau of Investigation;

13 under 28 U.S.C. 534 and the Hate Crime Statistics Act, as amended (28
14 U.S.C. 534 note).

15 ~~(e)~~ **(f)** Information submitted under subsection (b) and reports
16 issued under subsection ~~(e)~~ **(d)** shall, in conformity with guidelines
17 prescribed by the department,

18 ~~(1)~~ be separated in reports on the basis of whether it is an alleged
19 crime, a charged crime, or a crime for which a conviction has
20 been obtained. ~~and~~

21 ~~(2) be divided in reports on the basis of whether, in the opinion of~~
22 ~~the reporting individual and the data collectors, bias was the~~
23 ~~primary motivation for the crime or only incidental to the crime.~~

24 SECTION 2. IC 35-38-1-7.1, AS AMENDED BY P.L.213-2015,
25 SECTION 261, IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2019]: Sec. 7.1. (a) In determining what
27 sentence to impose for a crime, the court may consider the following
28 aggravating circumstances:

29 (1) The harm, injury, loss, or damage suffered by the victim of an
30 offense was:

31 (A) significant; and

32 (B) greater than the elements necessary to prove the
33 commission of the offense.

34 (2) The person has a history of criminal or delinquent behavior.

35 (3) The victim of the offense was less than twelve (12) years of
36 age or at least sixty-five (65) years of age at the time the person
37 committed the offense.

38 (4) The person:

39 (A) committed a crime of violence (IC 35-50-1-2); and

40 (B) knowingly committed the offense in the presence or within
41 hearing of an individual who:

42 (i) was less than eighteen (18) years of age at the time the



- 1 person committed the offense; and
 2 (ii) is not the victim of the offense.
- 3 (5) The person violated a protective order issued against the
 4 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
 5 IC 34-4-5.1 before their repeal), a workplace violence restraining
 6 order issued against the person under IC 34-26-6, or a no contact
 7 order issued against the person.
- 8 (6) The person has recently violated the conditions of any
 9 probation, parole, pardon, community corrections placement, or
 10 pretrial release granted to the person.
- 11 (7) The victim of the offense was:
 12 (A) a person with a disability (as defined in IC 27-7-6-12), and
 13 the defendant knew or should have known that the victim was
 14 a person with a disability; or
 15 (B) mentally or physically infirm.
- 16 (8) The person was in a position having care, custody, or control
 17 of the victim of the offense.
- 18 (9) The injury to or death of the victim of the offense was the
 19 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 20 (10) The person threatened to harm the victim of the offense or a
 21 witness if the victim or witness told anyone about the offense.
- 22 (11) The person:
 23 (A) committed trafficking with an inmate under
 24 IC 35-44.1-3-5; and
 25 (B) is an employee of the penal facility.
- 26 (b) The court may consider the following factors as mitigating
 27 circumstances or as favoring suspending the sentence and imposing
 28 probation:
 29 (1) The crime neither caused nor threatened serious harm to
 30 persons or property, or the person did not contemplate that it
 31 would do so.
 32 (2) The crime was the result of circumstances unlikely to recur.
 33 (3) The victim of the crime induced or facilitated the offense.
 34 (4) There are substantial grounds tending to excuse or justify the
 35 crime, though failing to establish a defense.
 36 (5) The person acted under strong provocation.
 37 (6) The person has no history of delinquency or criminal activity,
 38 or the person has led a law-abiding life for a substantial period
 39 before commission of the crime.
 40 (7) The person is likely to respond affirmatively to probation or
 41 short term imprisonment.
 42 (8) The character and attitudes of the person indicate that the



- 1 person is unlikely to commit another crime.
- 2 (9) The person has made or will make restitution to the victim of
- 3 the crime for the injury, damage, or loss sustained.
- 4 (10) Imprisonment of the person will result in undue hardship to
- 5 the person or the dependents of the person.
- 6 (11) The person was convicted of a crime involving the use of
- 7 force against a person who had repeatedly inflicted physical or
- 8 sexual abuse upon the convicted person and evidence shows that
- 9 the convicted person suffered from the effects of battery as a
- 10 result of the past course of conduct of the individual who is the
- 11 victim of the crime for which the person was convicted.
- 12 (12) The person was convicted of a crime relating to a controlled
- 13 substance and the person's arrest or prosecution was facilitated in
- 14 part because the person:
- 15 (A) requested emergency medical assistance; or
- 16 (B) acted in concert with another person who requested
- 17 emergency medical assistance;
- 18 for an individual who reasonably appeared to be in need of
- 19 medical assistance due to the use of alcohol or a controlled
- 20 substance.
- 21 (13) The person has posttraumatic stress disorder, traumatic brain
- 22 injury, or a postconcussive brain injury.
- 23 (c) The criteria listed in subsections (a) and (b) do not limit the
- 24 matters, **including bias**, that the court may consider in determining the
- 25 sentence.
- 26 (d) A court may impose any sentence that is:
- 27 (1) authorized by statute; and
- 28 (2) permissible under the Constitution of the State of Indiana;
- 29 regardless of the presence or absence of aggravating circumstances or
- 30 mitigating circumstances.
- 31 (e) If a court suspends a sentence and orders probation for a person
- 32 described in subsection (b)(13), the court may require the person to
- 33 receive treatment for the person's injuries.



REPORT OF THE PRESIDENT
PRO TEMPORE

Madam President: Pursuant to Senate Rule 68(b), I hereby report that Senate Bill 12, currently assigned to the Committee on Rules and Legislative Procedure, be reassigned to the Committee on Public Policy.

BRAY

COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 12, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-1-9, AS AMENDED BY P.L.86-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

- (1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.
- (2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.
- (3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.
- (4) Minimum standards for a course of study on cultural diversity awareness, including training on the U nonimmigrant visa created through the federal Victims of Trafficking and Violence



Protection Act of 2000 (P.L. 106-386) that must be required for each person accepted for training at a law enforcement training school or academy. Cultural diversity awareness study must include an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities, **as well as training on recognizing, investigating, and reporting bias motivated crimes (as defined in IC 10-13-3-1).**

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

- (A) persons with autism, mental illness, addictive disorders, intellectual disabilities, and developmental disabilities;
- (B) missing endangered adults (as defined in IC 12-7-2-131.3); and
- (C) persons with Alzheimer's disease or related senile dementia;

to be provided by persons approved by the secretary of family and social services and the board. The training must include an overview of the crisis intervention teams.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

- (A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).
- (B) Identification of human and sexual trafficking.
- (C) Communicating with traumatized persons.
- (D) Therapeutically appropriate investigative techniques.



- (E) Collaboration with federal law enforcement officials.
- (F) Rights of and protections afforded to victims.
- (G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.
- (H) The availability of community resources to assist human and sexual trafficking victims.

(b) A law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (m), (t), and (u), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

- (1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or
- (2) an:
 - (A) attorney; or
 - (B) investigator;



designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(k).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, interacting with individuals with autism, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) Subject to subsection (h), the board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers and police reserve officers (as described in IC 36-8-3-20). After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, intellectual disabilities, autism, developmental disabilities, and Alzheimer's disease or related senile dementia, to be provided by persons approved by the secretary of family and social services and the board, ~~and~~ training concerning human and sexual trafficking and high risk missing persons (as defined in IC 5-2-17-1),



and training on recognizing, investigating, and reporting bias motivated crimes (as defined in IC 10-13-3-1). The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either an emergency situation or the unavailability of courses.

(h) This subsection applies only to a mandatory inservice training program under subsection (g). Notwithstanding subsection (g), the board may, without adopting rules under IC 4-22-2, modify the course work of a training subject matter, modify the number of hours of training required within a particular subject matter, or add a new subject matter, if the board satisfies the following requirements:

- (1) The board must conduct at least two (2) public meetings on the proposed modification or addition.
- (2) After approving the modification or addition at a public meeting, the board must post notice of the modification or addition on the Indiana law enforcement academy's Internet web site at least thirty (30) days before the modification or addition takes effect.

If the board does not satisfy the requirements of this subsection, the modification or addition is void. This subsection does not authorize the board to eliminate any inservice training subject matter required under subsection (g).

(i) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

- (1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.
- (2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.
- (3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.
- (4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.
- (5) The time limitations imposed by subsections (b) and (c) for



completing the training are also applicable to the town marshal basic training program.

(6) The program must require training in interacting with individuals with autism.

(j) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

- (1) Liability.
- (2) Media relations.
- (3) Accounting and administration.
- (4) Discipline.
- (5) Department policy making.
- (6) Lawful use of force.
- (7) Department programs.
- (8) Emergency vehicle operation.
- (9) Cultural diversity.

(k) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(l) A police chief who fails to comply with subsection (k) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (k), "police chief" refers to:

- (1) the police chief of any city;
- (2) the police chief of any town having a metropolitan police department; and
- (3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(m) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(n) The board shall adopt rules under IC 4-22-2 to establish a



program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

- (1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;
- (2) has not been employed as a law enforcement officer for:
 - (A) at least two (2) years; and
 - (B) less than six (6) years before the officer is hired under subdivision (1); and
- (3) completed at any time a basic training course certified or recognized by the board before the officer is hired under subdivision (1).

(p) An officer to whom subsection (o) applies must successfully complete the refresher course described in subsection (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

- (1) arrest;
- (2) search; and
- (3) seizure.

(q) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

- (1) is appointed by an Indiana law enforcement department or agency as a reserve police officer; and
- (2) has not worked as a reserve police officer for at least two (2) years after:
 - (A) completing the pre-basic course; or
 - (B) leaving the individual's last appointment as a reserve police officer.

An officer to whom this subsection applies must successfully complete the refresher course established by the board in order to work as a reserve police officer.

(r) This subsection applies to an individual who, at the time the individual completes a board certified or recognized basic training course, has not been appointed as a law enforcement officer by an Indiana law enforcement department or agency. If the individual is not employed as a law enforcement officer for at least two (2) years after completing the basic training course, the individual must successfully retake and complete the basic training course as set forth in subsection (d).



(s) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an individual who:

- (1) is appointed as a board certified instructor of law enforcement training; and
- (2) has not provided law enforcement training instruction for more than one (1) year after the date the individual's instructor certification expired.

An individual to whom this subsection applies must successfully complete the refresher course established by the board in order to renew the individual's instructor certification.

(t) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

- (1) the agent successfully completes the pre-basic course established in subsection (f); and
- (2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(u) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

- (1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and
- (2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(v) As used in this section, "upper level policymaking position" refers to the following:

- (1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.
- (2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:
 - (A) the position held by the police chief or town marshal; and
 - (B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.
- (3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:



- (A) the position held by the police chief or town marshal; and
- (B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

(w) This subsection applies only to a correctional police officer employed by the department of correction. A correctional police officer may exercise the police powers described in subsection (d) if:

- (1) the officer successfully completes the pre-basic course described in subsection (f); and
- (2) the officer successfully completes any other training courses established by the department of correction in conjunction with the board.

SECTION 2. IC 5-2-8-1, AS AMENDED BY P.L.217-2017, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) The following definitions apply in this section:

(1) "Abuse" means:

- (A) conduct that causes bodily injury (as defined in IC 35-31.5-2-29) or damage to property; or
- (B) a threat of conduct that would cause bodily injury (as defined in IC 35-31.5-2-29) or damage to property.

(2) "County law enforcement agency" includes:

- (A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; and
- (B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-4 or IC 33-37-8-6.

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars (\$100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the



county auditor in the law enforcement academy fund established under IC 5-2-1-13.

(f) To make a claim under IC 33-37-8-6, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under IC 33-37-4.

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:
 - (A) minimize the likelihood of injury to the law enforcement officer; and
 - (B) promote the safety of a victim.
- (4) Information about the nature and extent of abuse.
- (5) Information about the legal rights of and remedies available to victims of abuse, including the U nonimmigrant visa created under the federal Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386).
- (6) How to document and collect evidence in an abuse case.
- (7) The legal consequences of abuse.
- (8) The impact on children of law enforcement intervention in abuse cases.
- (9) Services and facilities available to victims of abuse and abusers.
- (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
- (11) Policies concerning arrest or release of suspects in abuse cases.
- (12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
- (13) Landlord-tenant concerns in abuse cases.
- (14) The taking of an abused child into protective custody.



(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(18) Performing cardiopulmonary resuscitation and the Heimlich maneuver.

(19) Cultural diversity awareness that includes an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities, **as well as training on recognizing, investigating, and reporting bias motivated crimes (as defined in IC 10-13-3-1).**

(i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.

SECTION 3. IC 5-2-8-2, AS AMENDED BY P.L.257-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) The following definitions apply in this section:

(1) "Abuse" has the meaning set forth in section 1(a) of this chapter.

(2) "City or town law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; and

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-4 and fees collected under IC 9-17-2-12(e), IC 9-26-9-3, and IC 35-47-2-3.

(c) A city or town law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the local law enforcement continuing education fund.

(d) Distribution of money in a local law enforcement continuing education fund shall be made to a city or town law enforcement agency without the necessity of first obtaining an appropriation from the fiscal body of the city or town.

(e) To make a claim under IC 33-37-8-4, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.



(f) A city or town law enforcement agency shall provide to each law enforcement officer employed by the city or town law enforcement agency continuing education concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:
 - (A) minimize the likelihood of injury to the law enforcement officer; and
 - (B) promote the safety of a victim.
- (4) Information about the nature and extent of abuse.
- (5) Information about the legal rights of and remedies available to victims of abuse.
- (6) How to document and collect evidence in an abuse case.
- (7) The legal consequences of abuse.
- (8) The impact on children of law enforcement intervention in abuse cases.
- (9) Services and facilities available to victims of abuse and abusers.
- (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
- (11) Policies concerning arrest or release of suspects in abuse cases.
- (12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
- (13) Landlord-tenant concerns in abuse cases.
- (14) The taking of an abused child into protective custody.
- (15) Assessment of a situation in which the child may be seriously endangered if the child is left in the child's home.
- (16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
- (17) Response to a sudden, unexpected infant death.
- (18) Performing cardiopulmonary resuscitation and the Heimlich maneuver.
- (19) Cultural diversity awareness that includes an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities, as well as training on recognizing, investigating, and reporting bias motivated crimes (as defined in IC 10-13-3-1).**



(g) A city or town law enforcement agency may enter into an agreement with other county, city, or town law enforcement agencies to provide the continuing education required by this section and section 1(h) of this chapter."

Page 1, line 10, after "disability," insert "age,".

Page 1, line 11, reset in roman "or".

Page 1, line 12, delete "political affiliation, status as a public safety official (as".

Page 1, delete lines 13 through 14.

Page 1, line 15, delete "forces of the United States (as defined in IC 5-9-4-3),".

Page 2, line 5, strike "A" and insert "**Each**".

Page 2, line 8, strike "a" and insert "**each**".

Page 2, line 9, delete "to:" and insert "to".

Page 2, line 10, delete "(1)".

Page 2, line 10, delete "information," and insert "information".

Page 2, line 11, strike "in the manner and form prescribed" and insert "**using the National Incident Based Reporting System (NIBRS) format as required**".

Page 2, line 12, delete "department;" and insert "department.".

Page 2, line 12, delete "and".

Run in lines 9 through 12.

Page 2, delete lines 13 through 15, begin a new paragraph and insert:

"(c) Each law enforcement agency shall submit data regarding the commission of bias motivated crimes to the Indiana central repository for criminal history in accordance with guidelines established by the Federal Bureau of Investigation under 28 U.S.C. 534."

Page 2, line 16, strike "(c)" and insert "**(d)**".

Page 2, line 27, strike "(d)" and insert "**(e)**".

Page 2, line 27, strike "(e)," and insert "**(f)**".

Page 2, line 35, strike "(e)" and insert "**(f)**".

Page 2, line 36, strike "(c)" and insert "**(d)**".

Page 3, delete lines 2 through 42, begin a new paragraph and insert:
"SECTION 7. IC 35-38-1-7.1, AS AMENDED BY P.L.213-2015, SECTION 261, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.1. (a) In determining what sentence to impose for a crime, the court may consider the following aggravating circumstances:

(1) The harm, injury, loss, or damage suffered by the victim of an offense was:



- (A) significant; and
 - (B) greater than the elements necessary to prove the commission of the offense.
- (2) The person has a history of criminal or delinquent behavior.
- (3) The victim of the offense was less than twelve (12) years of age or at least sixty-five (65) years of age at the time the person committed the offense.
- (4) The person:
- (A) committed a crime of violence (IC 35-50-1-2); and
 - (B) knowingly committed the offense in the presence or within hearing of an individual who:
 - (i) was less than eighteen (18) years of age at the time the person committed the offense; and
 - (ii) is not the victim of the offense.
- (5) The person violated a protective order issued against the person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or IC 34-4-5.1 before their repeal), a workplace violence restraining order issued against the person under IC 34-26-6, or a no contact order issued against the person.
- (6) The person has recently violated the conditions of any probation, parole, pardon, community corrections placement, or pretrial release granted to the person.
- (7) The victim of the offense was:
- (A) a person with a disability (as defined in IC 27-7-6-12), and the defendant knew or should have known that the victim was a person with a disability; or
 - (B) mentally or physically infirm.
- (8) The person was in a position having care, custody, or control of the victim of the offense.
- (9) The injury to or death of the victim of the offense was the result of shaken baby syndrome (as defined in IC 16-41-40-2).
- (10) The person threatened to harm the victim of the offense or a witness if the victim or witness told anyone about the offense.
- (11) The person:
- (A) committed trafficking with an inmate under IC 35-44.1-3-5; and
 - (B) is an employee of the penal facility.
- (12) The person committed the offense, including an offense involving the property of an individual or a group of individuals, with the intent to harm or intimidate an individual or a group of individuals because of a perceived or actual characteristic of the individual or group of individuals,**



including:

- (A) race;**
- (B) religion;**
- (C) color;**
- (D) sex;**
- (E) gender identity;**
- (F) disability;**
- (G) national origin;**
- (H) ancestry;**
- (I) sexual orientation; or**
- (J) age;**

whether or not the person's belief or perception was correct.

(b) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:

- (1) The crime neither caused nor threatened serious harm to persons or property, or the person did not contemplate that it would do so.
- (2) The crime was the result of circumstances unlikely to recur.
- (3) The victim of the crime induced or facilitated the offense.
- (4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.
- (5) The person acted under strong provocation.
- (6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.
- (7) The person is likely to respond affirmatively to probation or short term imprisonment.
- (8) The character and attitudes of the person indicate that the person is unlikely to commit another crime.
- (9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.
- (10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.
- (11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the victim of the crime for which the person was convicted.
- (12) The person was convicted of a crime relating to a controlled substance and the person's arrest or prosecution was facilitated in



part because the person:

- (A) requested emergency medical assistance; or
- (B) acted in concert with another person who requested emergency medical assistance;

for an individual who reasonably appeared to be in need of medical assistance due to the use of alcohol or a controlled substance.

(13) The person has posttraumatic stress disorder, traumatic brain injury, or a postconcussive brain injury.

(c) The criteria listed in subsections (a) and (b) do not limit the matters that the court may consider in determining the sentence.

(d) A court may impose any sentence that is:

- (1) authorized by statute; and
- (2) permissible under the Constitution of the State of Indiana;

regardless of the presence or absence of aggravating circumstances or mitigating circumstances.

(e) If a court suspends a sentence and orders probation for a person described in subsection (b)(13), the court may require the person to receive treatment for the person's injuries."

Delete pages 4 through 5, begin a new paragraph and insert:

"SECTION 8. IC 36-8-3-20, AS AMENDED BY P.L.180-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 20. (a) This section applies to counties and towns as well as cities.

(b) A unit may provide by ordinance for any number of police reserve officers.

(c) Police reserve officers shall be appointed by the same authority that appoints regular members of the department.

(d) Police reserve officers may be designated by another name specified by ordinance.

(e) Police reserve officers may not be members of the regular police department but have all of the same police powers as regular members, except as limited by the rules of the department. Each department may adopt rules to limit the authority of police reserve officers.

(f) To the extent that money is appropriated for a purpose listed in this subsection, police reserve officers may receive any of the following:

- (1) A uniform allowance.
- (2) Compensation for time lost from other employment because of court appearances.
- (3) In the case of county police reserve officers, compensation for lake patrol duties that the county sheriff assigns and approves for



compensation.

(g) Police reserve officers are not eligible to participate in any pension program provided for regular members of the department.

(h) A police reserve officer may not be appointed until the officer has completed the training and probationary period specified by rules of the department.

(i) A police reserve officer appointed by the department after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the police reserve officer successfully completes a pre-basic course under IC 5-2-1-9(f).

(j) A police reserve officer carrying out lake patrol duties under this chapter is immune from liability under IC 34-30-12, notwithstanding the payment of compensation to the officer.

(k) After June 30, 2015, a police reserve officer who has satisfactorily completed pre-basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the police reserve officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the law enforcement training board (created by IC 5-2-1-3). Inservice training must include training in interacting with persons with mental illness, addictive disorders, intellectual disabilities, autism, developmental disabilities, and Alzheimer's disease or related senile dementia, to be provided by persons approved by the secretary of family and social services and the board. The inservice training must also concern human and sexual trafficking and high risk missing persons (as defined in IC 5-2-17-1), **and training on recognizing, investigating, and reporting bias motivated crimes (as defined in IC 10-13-3-1)**. The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive a police reserve officer's inservice training requirements if the board determines that the police reserve officer's reason for lacking the required amount of inservice training hours is due to either of the following:

- (1) An emergency situation.
 - (2) The unavailability of courses.
- (l) After December 31, 2017, a unit shall:
- (1) provide the coverage specified in section 22 of this chapter;



and

(2) pay the amounts specified in section 23 of this chapter; for a police reserve officer who is injured or contracts an illness in the course of or as the result of the performance of duties as a police reserve officer.

(m) A unit may purchase policies of group insurance or establish a plan of self-insurance to meet its obligations under section 22 or 23 of this chapter. The establishment of a self-insurance program under this subsection is subject to the approval of the unit's fiscal body. Expenses incurred for premiums for insurance or for other charges or expenses under sections 22 and 23 of this chapter shall be paid out of the unit's general fund in the same manner as other expenses of the unit are paid."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 12 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 9, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 12 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 12.

Page 13, delete lines 1 through 25.

Page 13, line 29, delete "motivated".

Page 13, line 37, delete "motivated".

Page 14, line 5, delete "motivated".

Page 14, line 6, delete "motivated".

Page 14, delete lines 27 through 42, begin a new paragraph, and insert:

"SECTION 2. IC 35-38-1-7.1, AS AMENDED BY P.L.213-2015, SECTION 261, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.1. (a) In determining what sentence to impose for a crime, the court may consider the following aggravating circumstances:

(1) The harm, injury, loss, or damage suffered by the victim of an

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offense was:

- (A) significant; and
 - (B) greater than the elements necessary to prove the commission of the offense.
- (2) The person has a history of criminal or delinquent behavior.
- (3) The victim of the offense was less than twelve (12) years of age or at least sixty-five (65) years of age at the time the person committed the offense.
- (4) The person:
- (A) committed a crime of violence (IC 35-50-1-2); and
 - (B) knowingly committed the offense in the presence or within hearing of an individual who:
 - (i) was less than eighteen (18) years of age at the time the person committed the offense; and
 - (ii) is not the victim of the offense.
- (5) The person violated a protective order issued against the person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or IC 34-4-5.1 before their repeal), a workplace violence restraining order issued against the person under IC 34-26-6, or a no contact order issued against the person.
- (6) The person has recently violated the conditions of any probation, parole, pardon, community corrections placement, or pretrial release granted to the person.
- (7) The victim of the offense was:
- (A) a person with a disability (as defined in IC 27-7-6-12), and the defendant knew or should have known that the victim was a person with a disability; or
 - (B) mentally or physically infirm.
- (8) The person was in a position having care, custody, or control of the victim of the offense.
- (9) The injury to or death of the victim of the offense was the result of shaken baby syndrome (as defined in IC 16-41-40-2).
- (10) The person threatened to harm the victim of the offense or a witness if the victim or witness told anyone about the offense.
- (11) The person:
- (A) committed trafficking with an inmate under IC 35-44.1-3-5; and
 - (B) is an employee of the penal facility.
- (b) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:
- (1) The crime neither caused nor threatened serious harm to



persons or property, or the person did not contemplate that it would do so.

- (2) The crime was the result of circumstances unlikely to recur.
 - (3) The victim of the crime induced or facilitated the offense.
 - (4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.
 - (5) The person acted under strong provocation.
 - (6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.
 - (7) The person is likely to respond affirmatively to probation or short term imprisonment.
 - (8) The character and attitudes of the person indicate that the person is unlikely to commit another crime.
 - (9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.
 - (10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.
 - (11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the victim of the crime for which the person was convicted.
 - (12) The person was convicted of a crime relating to a controlled substance and the person's arrest or prosecution was facilitated in part because the person:
 - (A) requested emergency medical assistance; or
 - (B) acted in concert with another person who requested emergency medical assistance;
 for an individual who reasonably appeared to be in need of medical assistance due to the use of alcohol or a controlled substance.
 - (13) The person has posttraumatic stress disorder, traumatic brain injury, or a postconcussive brain injury.
- (c) The criteria listed in subsections (a) and (b) do not limit the matters, **including bias**, that the court may consider in determining the sentence.
- (d) A court may impose any sentence that is:
- (1) authorized by statute; and
 - (2) permissible under the Constitution of the State of Indiana;
- regardless of the presence or absence of aggravating circumstances or



mitigating circumstances.

(e) If a court suspends a sentence and orders probation for a person described in subsection (b)(13), the court may require the person to receive treatment for the person's injuries."

Delete pages 15 through 19.

Renumber all SECTIONS consecutively.

(Reference is to SB 12 as printed February 18, 2019.)

FREEMAN

