

## SENATE BILL No. 34

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-1-14; IC 12-32-2; IC 34-13-3-3; IC 34-24-1-1; IC 35-31.5-2-341; IC 35-33-8-3.7; IC 35-43-1-2; IC 35-44.1-2-13; IC 35-45-1; IC 35-50-2-19; IC 36-1-30; IC 36-8-2.7.

**Synopsis:** Unlawful assembly. Provides that a person convicted of rioting is not eligible: (1) for employment by the state or a local unit of government; and (2) to receive certain state and local benefits. Removes immunity under the Indiana tort claims act for the failure to enforce a law if the failure to enforce the law: (1) occurs in connection with an unlawful assembly; and (2) constitutes gross negligence. Allows for the civil forfeiture of property that is used by a person to finance a crime committed by a person who is a member of an unlawful assembly. Prohibits a person from being released on bail without a hearing in open court, establishes a rebuttable presumption that money bail shall be required, and requires a court to consider whether bail conditions more stringent than the local guidelines should be imposed. Adds enhanced penalties to the crimes of: (1) rioting; (2) obstruction of traffic; (3) criminal mischief; and (4) disorderly conduct. Adds a sentence enhancement to battery committed by a member of an unlawful assembly. Defines "defunding law enforcement" and allows a person to bring an action to enjoin a local unit from defunding law enforcement.

**Effective:** July 1, 2021.

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## Tomes, Crider

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January 4, 2021, read first time and referred to Committee on Corrections and Criminal Law.

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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.

## SENATE BILL No. 34

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 4-1-14 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2021]:

4 **Chapter 14. Person Convicted of Rioting Ineligible for**  
5 **Employment**

6 **Sec. 1. As used in this chapter, "rioting" has the meaning set**  
7 **forth in IC 35-45-1-2.**

8 **Sec. 2. As used in this chapter, "state agency" means an**  
9 **authority, a board, a branch, a commission, a committee, a**  
10 **department, a division, or another instrumentality of the state,**  
11 **including the executive, administrative, judicial, and legislative**  
12 **departments of state government. The term includes the following:**

- 13 (1) **A state elected official's office.**
- 14 (2) **A state educational institution.**
- 15 (3) **A body corporate and politic of the state created by state**
- 16 **statute.**
- 17 (4) **The Indiana lobby registration commission established by**



1           **IC 2-7-1.6-1.**

2           **Sec. 3. (a) Except as provided in subsection (b), a state agency:**

3                 **(1) may not hire a person convicted of rioting; and**

4                 **(2) shall discharge an employee convicted of rioting;**

5           **if the offense was committed after June 30, 2021.**

6           **(b) This section does not apply to a conviction for rioting that**  
 7           **was reversed, vacated, set aside, or expunged.**

8           SECTION 2. IC 12-32-2 IS ADDED TO THE INDIANA CODE AS  
 9           A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 10           1, 2021]:

11           **Chapter 2. Restrictions on Providing State and Local Benefits**  
 12           **to a Person Convicted of Rioting**

13           **Sec. 1. As used in this chapter, "rioting" has the meaning set**  
 14           **forth in IC 35-45-1-2.**

15           **Sec. 2. As used in this chapter, "state agency" means an**  
 16           **authority, a board, a branch, a commission, a committee, a**  
 17           **department, a division, or another instrumentality of the state,**  
 18           **including the executive, administrative, judicial, and legislative**  
 19           **departments of state government. The term includes the following:**

20                 **(1) A state elected official's office.**

21                 **(2) A state educational institution.**

22                 **(3) A body corporate and politic of the state created by state**  
 23                 **statute.**

24                 **(4) The Indiana lobby registration commission established by**  
 25                 **IC 2-7-1.6-1.**

26           **Sec. 3. (a) Except as provided in subsection (b), as used in this**  
 27           **chapter, "state or local benefit" means:**

28                 **(1) any grant, contract, loan, professional license, or**  
 29                 **commercial license provided by a state agency or a unit, or by**  
 30                 **appropriated funds of the state or a unit; and**

31                 **(2) any retirement, welfare, health, disability, public or**  
 32                 **assisted housing, postsecondary education, food assistance,**  
 33                 **unemployment benefit, or any other similar benefit for which**  
 34                 **payments or assistance are provided to an individual,**  
 35                 **household, or family eligibility unit by a state agency or a**  
 36                 **unit, or by appropriated funds of the state or a unit.**

37           **(b) "State or local benefit" does not include the following:**

38                 **(1) Assistance for health care items and services that are**  
 39                 **necessary for the treatment of an emergency medical**  
 40                 **condition.**

41                 **(2) Short term, noncash, in kind emergency disaster relief.**

42                 **(3) Public health assistance for immunizations with respect to**



1 immunizable diseases and for testing and treatment of  
 2 symptoms of communicable diseases, whether or not the  
 3 symptoms are caused by a communicable disease.

4 (4) Programs, services, or assistance (such as soup kitchens,  
 5 crisis counseling and intervention, and short term shelter)  
 6 that:

7 (A) deliver in kind services at the community level,  
 8 including through public or private nonprofit agencies;

9 (B) do not condition the provision of assistance, the amount  
 10 of assistance provided, or the cost of assistance provided  
 11 on the individual recipient's income or resources; and

12 (C) are necessary for the protection of life or safety.

13 Sec. 4. (a) Except as provided in subsection (b) and in section 5  
 14 of this chapter, a state agency, a unit, or both, may not provide a  
 15 state or local benefit to a person convicted of rioting if the offense  
 16 was committed after June 30, 2021, unless the denial of a benefit  
 17 would violate the Constitution of the State of Indiana, the  
 18 Constitution of the United States, or federal law.

19 (b) This section does not apply to a conviction for rioting that  
 20 was reversed, vacated, set aside, or expunged.

21 Sec. 5. The state board of accounts:

22 (1) shall adopt rules under IC 4-22-2, applicable to all units,  
 23 to carry out this chapter; and

24 (2) may adopt generally applicable rules to provide for an  
 25 adjudication in the case of circumstances under which strict  
 26 application of this chapter would impose a hardship on an  
 27 innocent third party, including a spouse or children.

28 Sec. 6. An agency may adopt rules under IC 4-22-2 to carry out  
 29 this chapter.

30 SECTION 3. IC 34-13-3-3, AS AMENDED BY P.L.65-2016,  
 31 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2021]: Sec. 3. A governmental entity or an employee acting  
 33 within the scope of the employee's employment is not liable if a loss  
 34 results from the following:

35 (1) The natural condition of unimproved property.

36 (2) The condition of a reservoir, dam, canal, conduit, drain, or  
 37 similar structure when used by a person for a purpose that is not  
 38 foreseeable.

39 (3) The temporary condition of a public thoroughfare or extreme  
 40 sport area that results from weather.

41 (4) The condition of an unpaved road, trail, or footpath, the  
 42 purpose of which is to provide access to a recreation or scenic



- 1 area.
- 2 (5) The design, construction, control, operation, or normal
- 3 condition of an extreme sport area, if all entrances to the extreme
- 4 sport area are marked with:
- 5 (A) a set of rules governing the use of the extreme sport area;
- 6 (B) a warning concerning the hazards and dangers associated
- 7 with the use of the extreme sport area; and
- 8 (C) a statement that the extreme sport area may be used only
- 9 by persons operating extreme sport equipment.
- 10 This subdivision shall not be construed to relieve a governmental
- 11 entity from liability for the continuing duty to maintain extreme
- 12 sports areas in a reasonably safe condition.
- 13 (6) The initiation of a judicial or an administrative proceeding.
- 14 (7) The performance of a discretionary function; however, the
- 15 provision of medical or optical care as provided in IC 34-6-2-38
- 16 shall be considered as a ministerial act.
- 17 (8) The adoption and enforcement of or failure to adopt or
- 18 enforce:
- 19 (A) a law (including rules and regulations); or
- 20 (B) in the case of a public school or charter school, a policy;
- 21 unless the act of enforcement constitutes false arrest or false
- 22 imprisonment. **However, this subdivision does not apply to the**
- 23 **failure to enforce a law in connection with an unlawful**
- 24 **assembly (as defined in IC 35-31.5-2-341), if the failure to**
- 25 **enforce the law constitutes gross negligence.**
- 26 (9) An act or omission performed in good faith and without
- 27 malice under the apparent authority of a statute which is invalid
- 28 if the employee would not have been liable had the statute been
- 29 valid.
- 30 (10) The act or omission of anyone other than the governmental
- 31 entity or the governmental entity's employee.
- 32 (11) The issuance, denial, suspension, or revocation of, or failure
- 33 or refusal to issue, deny, suspend, or revoke any permit, license,
- 34 certificate, approval, order, or similar authorization, where the
- 35 authority is discretionary under the law.
- 36 (12) Failure to make an inspection, or making an inadequate or
- 37 negligent inspection, of any property, other than the property of
- 38 a governmental entity, to determine whether the property
- 39 complied with or violates any law or contains a hazard to health
- 40 or safety.
- 41 (13) Entry upon any property where the entry is expressly or
- 42 impliedly authorized by law.



- 1 (14) Misrepresentation if unintentional.
- 2 (15) Theft by another person of money in the employee's official  
3 custody, unless the loss was sustained because of the employee's  
4 own negligent or wrongful act or omission.
- 5 (16) Injury to the property of a person under the jurisdiction and  
6 control of the department of correction if the person has not  
7 exhausted the administrative remedies and procedures provided  
8 by section 7 of this chapter.
- 9 (17) Injury to the person or property of a person under supervision  
10 of a governmental entity and who is:
- 11 (A) on probation; or
- 12 (B) assigned to an alcohol and drug services program under  
13 IC 12-23, a minimum security release program under  
14 IC 11-10-8, a pretrial conditional release program under  
15 IC 35-33-8, or a community corrections program under  
16 IC 11-12.
- 17 (18) Design of a highway (as defined in IC 9-13-2-73), toll road  
18 project (as defined in IC 8-15-2-4(4)), tollway (as defined in  
19 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the  
20 claimed loss occurs at least twenty (20) years after the public  
21 highway, toll road project, tollway, or project was designed or  
22 substantially redesigned; except that this subdivision shall not be  
23 construed to relieve a responsible governmental entity from the  
24 continuing duty to provide and maintain public highways in a  
25 reasonably safe condition.
- 26 (19) Development, adoption, implementation, operation,  
27 maintenance, or use of an enhanced emergency communication  
28 system.
- 29 (20) Injury to a student or a student's property by an employee of  
30 a school corporation if the employee is acting reasonably under a:
- 31 (A) discipline policy adopted under IC 20-33-8-12; or
- 32 (B) restraint and seclusion plan adopted under IC 20-20-40-14.
- 33 (21) An act or omission performed in good faith under the  
34 apparent authority of a court order described in IC 35-46-1-15.1  
35 or IC 35-46-1-15.3 that is invalid, including an arrest or  
36 imprisonment related to the enforcement of the court order, if the  
37 governmental entity or employee would not have been liable had  
38 the court order been valid.
- 39 (22) An act taken to investigate or remediate hazardous  
40 substances, petroleum, or other pollutants associated with a  
41 brownfield (as defined in IC 13-11-2-19.3) unless:
- 42 (A) the loss is a result of reckless conduct; or



- 1 (B) the governmental entity was responsible for the initial  
 2 placement of the hazardous substances, petroleum, or other  
 3 pollutants on the brownfield.
- 4 (23) The operation of an off-road vehicle (as defined in  
 5 IC 14-8-2-185) by a nongovernmental employee, or by a  
 6 governmental employee not acting within the scope of the  
 7 employment of the employee, on a public highway in a county  
 8 road system outside the corporate limits of a city or town, unless  
 9 the loss is the result of an act or omission amounting to:
- 10 (A) gross negligence;  
 11 (B) willful or wanton misconduct; or  
 12 (C) intentional misconduct.
- 13 This subdivision shall not be construed to relieve a governmental  
 14 entity from liability for the continuing duty to maintain highways  
 15 in a reasonably safe condition for the operation of motor vehicles  
 16 licensed by the bureau of motor vehicles for operation on public  
 17 highways.
- 18 (24) Any act or omission rendered in connection with a request,  
 19 investigation, assessment, or opinion provided under  
 20 IC 36-9-28.7.
- 21 SECTION 4. IC 34-24-1-1, AS AMENDED BY P.L.142-2020,  
 22 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2021]: Sec. 1. (a) The following may be seized:
- 24 (1) All vehicles (as defined by IC 35-31.5-2-346), if they are used  
 25 or are intended for use by the person or persons in possession of  
 26 them to transport or in any manner to facilitate the transportation  
 27 of the following:
- 28 (A) A controlled substance for the purpose of committing,  
 29 attempting to commit, or conspiring to commit any of the  
 30 following:
- 31 (i) Dealing in or manufacturing cocaine or a narcotic drug  
 32 (IC 35-48-4-1).  
 33 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).  
 34 (iii) Manufacturing methamphetamine (IC 35-48-4-1.2).  
 35 (iv) Dealing in a schedule I, II, or III controlled substance  
 36 (IC 35-48-4-2).  
 37 (v) Dealing in a schedule IV controlled substance (IC  
 38 35-48-4-3).  
 39 (vi) Dealing in a schedule V controlled substance (IC  
 40 35-48-4-4).  
 41 (vii) Dealing in a counterfeit substance (IC 35-48-4-5).  
 42 (viii) Possession of cocaine or a narcotic drug (IC



- 1 35-48-4-6).
- 2 (ix) Possession of methamphetamine (IC 35-48-4-6.1).
- 3 (x) Dealing in paraphernalia (IC 35-48-4-8.5).
- 4 (xi) Dealing in marijuana, hash oil, hashish, or salvia (IC
- 5 35-48-4-10).
- 6 (xii) An offense under IC 35-48-4 involving a synthetic drug
- 7 (as defined in IC 35-31.5-2-321), a synthetic drug lookalike
- 8 substance (as defined in IC 35-31.5-2-321.5 (before its
- 9 repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its
- 10 repeal on July 1, 2019), a controlled substance analog (as
- 11 defined in IC 35-48-1-9.3), or a substance represented to be
- 12 a controlled substance (as described in IC 35-48-4-4.6).
- 13 (B) Any stolen (IC 35-43-4-2) or converted property (IC
- 14 35-43-4-3) if the retail or repurchase value of that property is
- 15 one hundred dollars (\$100) or more.
- 16 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
- 17 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
- 18 mass destruction (as defined in IC 35-31.5-2-354) used to
- 19 commit, used in an attempt to commit, or used in a conspiracy
- 20 to commit a felony terrorist offense (as defined in
- 21 IC 35-50-2-18) or an offense under IC 35-47 as part of or in
- 22 furtherance of an act of terrorism (as defined by
- 23 IC 35-31.5-2-329).
- 24 (2) All money, negotiable instruments, securities, weapons,
- 25 communications devices, or any property used to commit, used in
- 26 an attempt to commit, or used in a conspiracy to commit a felony
- 27 terrorist offense (as defined in IC 35-50-2-18) or an offense under
- 28 IC 35-47 as part of or in furtherance of an act of terrorism or
- 29 commonly used as consideration for a violation of IC 35-48-4
- 30 (other than items subject to forfeiture under IC 16-42-20-5 or
- 31 IC 16-6-8.5-5.1, before its repeal):
- 32 (A) furnished or intended to be furnished by any person in
- 33 exchange for an act that is in violation of a criminal statute;
- 34 (B) used to facilitate any violation of a criminal statute; or
- 35 (C) traceable as proceeds of the violation of a criminal statute.
- 36 (3) Any portion of real or personal property purchased with
- 37 money that is traceable as a proceed of a violation of a criminal
- 38 statute.
- 39 (4) A vehicle that is used by a person to:
- 40 (A) commit, attempt to commit, or conspire to commit;
- 41 (B) facilitate the commission of; or
- 42 (C) escape from the commission of;





- 1 murder (IC 35-42-1-1), dealing in a controlled substance resulting  
 2 in death (IC 35-42-1-1.5), kidnapping (IC 35-42-3-2), criminal  
 3 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting  
 4 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense  
 5 under IC 35-47 as part of or in furtherance of an act of terrorism.  
 6 (5) Real property owned by a person who uses it to commit any of  
 7 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5  
 8 felony:
- 9 (A) Dealing in or manufacturing cocaine or a narcotic drug (IC  
 10 35-48-4-1).
  - 11 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
  - 12 (C) Manufacturing methamphetamine (IC 35-48-4-1.2).
  - 13 (D) Dealing in a schedule I, II, or III controlled substance (IC  
 14 35-48-4-2).
  - 15 (E) Dealing in a schedule IV controlled substance (IC  
 16 35-48-4-3).
  - 17 (F) Dealing in marijuana, hash oil, hashish, or salvia (IC  
 18 35-48-4-10).
  - 19 (G) Dealing in a synthetic drug (as defined in  
 20 IC 35-31.5-2-321) or synthetic drug lookalike substance (as  
 21 defined in IC 35-31.5-2-321.5 (before its repeal on July 1,  
 22 2019)) under IC 35-48-4-10.5 (before its repeal on July 1,  
 23 2019).
  - 24 (H) Dealing in a controlled substance resulting in death (IC  
 25 35-42-1-1.5).
- 26 (6) Equipment and recordings used by a person to commit fraud  
 27 under IC 35-43-5-4(10).
- 28 (7) Recordings sold, rented, transported, or possessed by a person  
 29 in violation of IC 24-4-10.
- 30 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as  
 31 defined by IC 35-45-6-1) that is the object of a corrupt business  
 32 influence violation (IC 35-45-6-2).
- 33 (9) Unlawful telecommunications devices (as defined in  
 34 IC 35-45-13-6) and plans, instructions, or publications used to  
 35 commit an offense under IC 35-45-13.
- 36 (10) Any equipment, including computer equipment and cellular  
 37 telephones, used for or intended for use in preparing,  
 38 photographing, recording, videotaping, digitizing, printing,  
 39 copying, or disseminating matter in violation of IC 35-42-4.
- 40 (11) Destructive devices used, possessed, transported, or sold in  
 41 violation of IC 35-47.5.
- 42 (12) Tobacco products that are sold in violation of IC 24-3-5,



1 tobacco products that a person attempts to sell in violation of  
 2 IC 24-3-5, and other personal property owned and used by a  
 3 person to facilitate a violation of IC 24-3-5.

4 (13) Property used by a person to commit counterfeiting or  
 5 forgery in violation of IC 35-43-5-2.

6 (14) After December 31, 2005, if a person is convicted of an  
 7 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the  
 8 following real or personal property:

9 (A) Property used or intended to be used to commit, facilitate,  
 10 or promote the commission of the offense.

11 (B) Property constituting, derived from, or traceable to the  
 12 gross proceeds that the person obtained directly or indirectly  
 13 as a result of the offense.

14 (15) Except as provided in subsection (e), a vehicle used by a  
 15 person who operates the vehicle:

16 (A) while intoxicated, in violation of IC 9-30-5-1 through  
 17 IC 9-30-5-5, if in the previous five (5) years the person has two  
 18 (2) or more prior unrelated convictions for operating a motor  
 19 vehicle while intoxicated in violation of IC 9-30-5-1 through  
 20 IC 9-30-5-5; or

21 (B) on a highway while the person's driving privileges are  
 22 suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,  
 23 if in the previous five (5) years the person has two (2) or more  
 24 prior unrelated convictions for operating a vehicle while  
 25 intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5.

26 If a court orders the seizure of a vehicle under this subdivision,  
 27 the court shall transmit an order to the bureau of motor vehicles  
 28 recommending that the bureau not permit a vehicle to be  
 29 registered in the name of the person whose vehicle was seized  
 30 until the person possesses a current driving license (as defined in  
 31 IC 9-13-2-41).

32 (16) The following real or personal property:

33 (A) Property used or intended to be used to commit, facilitate,  
 34 or promote the commission of an offense specified in  
 35 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or  
 36 IC 30-2-13-38(f).

37 (B) Property constituting, derived from, or traceable to the  
 38 gross proceeds that a person obtains directly or indirectly as a  
 39 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),  
 40 IC 30-2-10-9(b), or IC 30-2-13-38(f).

41 (17) An automated sales suppression device (as defined in  
 42 IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in



- 1 IC 35-43-5-4.6(a)(3).  
 2 (18) Real or personal property, including a vehicle, that is used by  
 3 a person to:  
 4 (A) commit, attempt to commit, or conspire to commit;  
 5 (B) facilitate the commission of; or  
 6 (C) escape from the commission of;  
 7 a violation of IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human  
 8 trafficking) or IC 35-45-4-4 (promoting prostitution).  
 9 **(19) Real or personal property that is used by a person to**  
 10 **finance or facilitate the financing of a crime committed by a**  
 11 **person while the person is part of an unlawful assembly (as**  
 12 **defined in IC 35-31.5-2-341).**  
 13 (b) A vehicle used by any person as a common or contract carrier in  
 14 the transaction of business as a common or contract carrier is not  
 15 subject to seizure under this section, unless it can be proven by a  
 16 preponderance of the evidence that the owner of the vehicle knowingly  
 17 permitted the vehicle to be used to engage in conduct that subjects it to  
 18 seizure under subsection (a).  
 19 (c) Equipment under subsection (a)(10) may not be seized unless it  
 20 can be proven by a preponderance of the evidence that the owner of the  
 21 equipment knowingly permitted the equipment to be used to engage in  
 22 conduct that subjects it to seizure under subsection (a)(10).  
 23 (d) Money, negotiable instruments, securities, weapons,  
 24 communications devices, or any property commonly used as  
 25 consideration for a violation of IC 35-48-4 found near or on a person  
 26 who is committing, attempting to commit, or conspiring to commit any  
 27 of the following offenses shall be admitted into evidence in an action  
 28 under this chapter as prima facie evidence that the money, negotiable  
 29 instrument, security, or other thing of value is property that has been  
 30 used or was to have been used to facilitate the violation of a criminal  
 31 statute or is the proceeds of the violation of a criminal statute:  
 32 (1) IC 35-42-1-1.5 (dealing in a controlled substance resulting in  
 33 death).  
 34 (2) IC 35-48-4-1 (dealing in or manufacturing cocaine or a  
 35 narcotic drug).  
 36 (3) IC 35-48-4-1.1 (dealing in methamphetamine).  
 37 (4) IC 35-48-4-1.2 (manufacturing methamphetamine).  
 38 (5) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled  
 39 substance).  
 40 (6) IC 35-48-4-3 (dealing in a schedule IV controlled substance).  
 41 (7) IC 35-48-4-4 (dealing in a schedule V controlled substance)  
 42 as a Level 4 felony.



- 1 (8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a  
 2 Level 3, Level 4, or Level 5 felony.  
 3 (9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level  
 4 3, Level 4, or Level 5 felony.  
 5 (10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or  
 6 salvia) as a Level 5 felony.  
 7 (11) IC 35-48-4-10.5 (before its repeal on July 1, 2019) (dealing  
 8 in a synthetic drug or synthetic drug lookalike substance) as a  
 9 Level 5 felony or Level 6 felony (or as a Class C felony or Class  
 10 D felony under IC 35-48-4-10 before its amendment in 2013).

11 (e) A vehicle operated by a person who is not:

- 12 (1) an owner of the vehicle; or  
 13 (2) the spouse of the person who owns the vehicle;

14 is not subject to seizure under subsection (a)(15) unless it can be  
 15 proven by a preponderance of the evidence that the owner of the  
 16 vehicle knowingly permitted the vehicle to be used to engage in  
 17 conduct that subjects it to seizure under subsection (a)(15).

18 SECTION 5. IC 35-31.5-2-341, AS ADDED BY P.L.114-2012,  
 19 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2021]: Sec. 341. "Unlawful assembly" for purposes of  
 21 ~~IC 35-45-1~~, has the meaning set forth in IC 35-45-1-1.

22 SECTION 6. IC 35-33-8-3.7 IS ADDED TO THE INDIANA CODE  
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 24 1, 2021]: **Sec. 3.7. (a) This section applies only to a person arrested  
 25 for or charged with an offense committed while the person was a  
 26 member of an unlawful assembly.**

27 **(b) A court may not admit a person to whom this section applies  
 28 to bail until the court has conducted a bail hearing in open court.  
 29 Except as provided in section 6 of this chapter, the court shall  
 30 conduct a bail hearing not later than forty-eight (48) hours after  
 31 the person has been arrested, unless exigent circumstances prevent  
 32 holding the hearing within forty-eight (48) hours.**

33 **(c) There is a presumption that a person to whom this section  
 34 applies should not be released without payment of money bail.**

35 **(d) At the conclusion of the hearing described in subsection (b)  
 36 and after consideration of subsection (c) and the bail guidelines  
 37 described in section 3.8 of this chapter, the court shall consider  
 38 whether the factors described in section 4 of this chapter warrant  
 39 the imposition of a bail amount that exceeds court or county  
 40 guidelines, if applicable.**

41 SECTION 7. IC 35-43-1-2, AS AMENDED BY P.L.111-2018,  
 42 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2021]: Sec. 2. (a) A person who recklessly, knowingly, or  
 2 intentionally damages or defaces property of another person without  
 3 the other person's consent commits criminal mischief, a Class B  
 4 misdemeanor. However, the offense is:

5 (1) a Class A misdemeanor if the pecuniary loss is at least seven  
 6 hundred fifty dollars (\$750) but less than fifty thousand dollars  
 7 (\$50,000); ~~and~~

8 (2) a Level 6 felony if:

9 (A) the pecuniary loss is at least fifty thousand dollars  
 10 (\$50,000);

11 (B) the damage causes a substantial interruption or impairment  
 12 of utility service rendered to the public;

13 (C) the damage is to a public record; ~~or~~

14 **(D) the offense is committed by a person who is a member  
 15 of an unlawful assembly and the damage is to public  
 16 property; or**

17 ~~(E)~~ (E) the damage is to a law enforcement animal (as defined  
 18 in IC 35-46-3-4.5); **and**

19 **(3) a Level 3 felony if:**

20 **(A) the offense is committed by a person who is a member  
 21 of an unlawful assembly;**

22 **(B) the pecuniary loss is at least fifty thousand dollars  
 23 (\$50,000); and**

24 **(C) the property damaged is public property.**

25 (b) A person who recklessly, knowingly, or intentionally damages:

26 (1) a structure used for religious worship without the consent of  
 27 the owner, possessor, or occupant of the property that is damaged;

28 (2) a school or community center without the consent of the  
 29 owner, possessor, or occupant of the property that is damaged;

30 (3) the property of an agricultural operation (as defined in  
 31 IC 32-30-6-1) without the consent of the owner, possessor, or  
 32 occupant of the property that is damaged;

33 (4) the grounds:

34 (A) adjacent to; and

35 (B) owned or rented in common with;

36 a structure or facility identified in subdivisions (1) through (3)  
 37 without the consent of the owner, possessor, or occupant of the  
 38 property that is damaged;

39 (5) personal property contained in a structure or located at a  
 40 facility identified in subdivisions (1) through (3) without the  
 41 consent of the owner, possessor, or occupant of the property that  
 42 is damaged;



- 1 (6) property that is vacant real property (as defined in  
 2 IC 36-7-36-5) or a vacant structure (as defined in IC 36-7-36-6);  
 3 or  
 4 (7) property after the person has been denied entry to the property  
 5 by a court order that was issued:  
 6 (A) to the person; or  
 7 (B) to the general public by conspicuous posting on or around  
 8 the property in areas where a person could observe the order  
 9 when the property has been designated by a municipality or  
 10 county enforcement authority to be a vacant property, an  
 11 abandoned property, or an abandoned structure (as defined in  
 12 IC 36-7-36-1);  
 13 commits institutional criminal mischief, a Class A misdemeanor.  
 14 However, the offense is a Level 6 felony if the pecuniary loss (or  
 15 property damage, in the case of an agricultural operation) is at least  
 16 seven hundred fifty dollars (\$750) but less than fifty thousand dollars  
 17 (\$50,000), and a Level 5 felony if the pecuniary loss (or property  
 18 damage, in the case of an agricultural operation) is at least fifty  
 19 thousand dollars (\$50,000).  
 20 (c) A person who recklessly, knowingly, or intentionally damages  
 21 property:  
 22 (1) during the dealing or manufacture of or attempted dealing or  
 23 manufacture of a controlled substance; and  
 24 (2) by means of a fire or an explosion;  
 25 commits controlled substances criminal mischief, a Level 6 felony.  
 26 However, the offense is a Level 5 felony if the offense results in  
 27 moderate bodily injury to any person other than a defendant.  
 28 (d) If a person is convicted of an offense under this section that  
 29 involves the use of graffiti, the court may, in addition to any other  
 30 penalty, order that the person's operator's license be suspended or  
 31 invalidated by the bureau of motor vehicles for not more than one (1)  
 32 year.  
 33 (e) The court may rescind an order for suspension or invalidation  
 34 under subsection (d) and allow the person to receive a license or permit  
 35 before the period of suspension or invalidation ends if the court  
 36 determines that the person has removed or painted over the graffiti or  
 37 has made other suitable restitution.  
 38 (f) For purposes of this section, "pecuniary loss" includes:  
 39 (1) the total costs incurred in inspecting, cleaning, and  
 40 decontaminating property contaminated by a pollutant; and  
 41 (2) a reasonable estimate of all additional costs not already  
 42 incurred under subdivision (1) that are necessary to inspect, clean,



1 and decontaminate property contaminated by a pollutant, to the  
2 extent that the property has not already been:

- 3 (A) cleaned;  
4 (B) decontaminated; or  
5 (C) both cleaned and decontaminated.

6 The term includes inspection, cleaning, or decontamination conducted  
7 by a person certified under IC 16-19-3.1.

8 SECTION 8. IC 35-44.1-2-13, AS AMENDED BY P.L.188-2015,  
9 SECTION 130, IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2021]: Sec. 13. (a) Except as provided in  
11 ~~subsection (b)~~ **subsections (b) and (c)**, a person who, with the intent  
12 to obstruct vehicular or pedestrian traffic, obstructs vehicular or  
13 pedestrian traffic commits obstruction of traffic, a Class B  
14 misdemeanor.

15 (b) The offense described in subsection (a) is:

- 16 (1) a Class A misdemeanor if the offense includes the use of a  
17 motor vehicle; and  
18 (2) a Level 6 felony if the offense results in serious bodily injury.

19 **(c) The offense described in subsection (a) is a Level 5 felony if**  
20 **it is committed by a person participating in a protest or**  
21 **demonstration that obstructs vehicular traffic, unless the**  
22 **obstruction of vehicular traffic is authorized by a permit and the**  
23 **person complies with the terms of the permit.**

24 ~~(e)~~ **(d)** A person who unreasonably obstructs vehicular or pedestrian  
25 traffic commits a Class C infraction.

26 ~~(d)~~ **(e)** It is a defense to an action under ~~subsection (e)~~ **subsection**  
27 **(d)** that the obstruction was caused by a vehicle malfunction.

28 SECTION 9. IC 35-45-1-2, AS AMENDED BY P.L.158-2013,  
29 SECTION 521, IS AMENDED TO READ AS FOLLOWS  
30 [EFFECTIVE JULY 1, 2021]: Sec. 2. A person who, being a member  
31 of an unlawful assembly, recklessly, knowingly, or intentionally  
32 engages in tumultuous conduct commits rioting, a Class A  
33 misdemeanor. However, the offense is:

34 **(1)** a Level 6 felony if it is committed while armed with a deadly  
35 weapon; **and**

36 **(2) a Level 5 felony if:**

37 **(A) the unlawful assembly consists of at least seven (7)**  
38 **persons; and**

39 **(B) the offense results in:**

40 **(i) bodily injury to another person; or**

41 **(ii) property damage of at least seven hundred fifty**  
42 **dollars (\$750).**



1 SECTION 10. IC 35-45-1-3, AS AMENDED BY P.L.158-2013,  
 2 SECTION 522, IS AMENDED TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) A person who recklessly,  
 4 knowingly, or intentionally:

- 5 (1) engages in fighting or in tumultuous conduct;
- 6 (2) makes unreasonable noise and continues to do so after being  
 7 asked to stop; or
- 8 (3) disrupts a lawful assembly of persons;

9 commits disorderly conduct, a Class B misdemeanor.

10 (b) The offense described in subsection (a) is a Level 6 felony if it:

- 11 (1) adversely affects airport security; and
- 12 (2) is committed in an airport (as defined in IC 8-21-1-1) or on the  
 13 premises of an airport, including in a parking area, a maintenance  
 14 bay, or an aircraft hangar.

15 (c) The offense described in subsection (a) is a Level 6 felony if it:

- 16 (1) is committed within five hundred (500) feet of:
  - 17 (A) the location where a burial is being performed;
  - 18 (B) a funeral procession, if the person described in subsection  
 19 (a) knows that the funeral procession is taking place; or
  - 20 (C) a building in which:
    - 21 (i) a funeral or memorial service; or
    - 22 (ii) the viewing of a deceased person;
- 23 is being conducted; and
- 24 (2) adversely affects the funeral, burial, viewing, funeral  
 25 procession, or memorial service.

26 **(d) The offense described in subsection (a) is a Class A  
 27 misdemeanor if it is committed:**

- 28 **(1) by a person who is a member of an unlawful assembly; and**
- 29 **(2) in a place of public accommodation.**

30 SECTION 11. IC 35-50-2-19 IS ADDED TO THE INDIANA  
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2021]: **Sec. 19. (a) The state may seek, on a  
 33 page separate from the rest of a charging instrument, to have a  
 34 person who allegedly committed battery while a member of an  
 35 unlawful assembly sentenced to an additional fixed term of  
 36 imprisonment if the state can show beyond a reasonable doubt that  
 37 the person committed the offense while a member of an unlawful  
 38 assembly.**

39 **(b) If the person is convicted of the offense in a jury trial, the  
 40 jury shall reconvene to hear evidence in the enhancement hearing.  
 41 If the trial was to the court, or the judgment was entered on a  
 42 guilty plea, the court alone shall hear evidence in the enhancement**





1 hearing.

2 (c) If the jury (if the hearing is by jury) or the court (if the  
3 hearing is to the court alone) finds that the state has proved beyond  
4 a reasonable doubt that the person committed battery while a  
5 member of an unlawful assembly, the court shall:

6 (1) sentence the person to an additional fixed term of  
7 imprisonment of not more than two (2) years; or

8 (2) if the offense resulted in bodily injury to a public safety  
9 official acting within the scope of the public safety official's  
10 duty, sentence the person to an additional fixed term of  
11 imprisonment of at least six (6) months, and not more than  
12 three (3) years.

13 (d) A sentence imposed under this section shall run  
14 consecutively to the underlying sentence.

15 (e) A term of imprisonment imposed under subsection (c)(2)  
16 may not be suspended.

17 SECTION 12. IC 36-1-30 IS ADDED TO THE INDIANA CODE  
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2021]:

20 **Chapter 30. Person Convicted of Rioting Ineligible for**  
21 **Employment**

22 **Sec. 1. As used in this chapter, "rioting" has the meaning set**  
23 **forth in IC 35-45-1-2.**

24 **Sec. 2. (a) Except as provided in subsection (b), a unit:**

25 (1) may not hire a person convicted of rioting; and

26 (2) shall discharge an employee convicted of rioting;

27 if the offense was committed after June 30, 2021.

28 (b) This section does not apply to a conviction for rioting that  
29 was reversed, vacated, set aside, or expunged.

30 SECTION 13. IC 36-8-2.7 IS ADDED TO THE INDIANA CODE  
31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2021]:

33 **Chapter 2.7. Defunding Law Enforcement**

34 **Sec. 1. As used in this chapter, "defund a law enforcement**  
35 **agency" means to reduce significantly the money allocated to a law**  
36 **enforcement agency, from appropriations or otherwise, when the**  
37 **reduction is not justified by:**

38 (1) a decline in tax revenue;

39 (2) a decline in the crime rate within the territory of the unit;  
40 or

41 (3) the availability of another funding source for the law  
42 enforcement agency.



- 1           **Sec. 2. A unit may not defund a law enforcement agency.**  
2           **Sec. 3. Any person who believes that a unit is defunding a law**  
3 **enforcement agency may bring an action in a circuit or superior**  
4 **court of the county in which the unit is located to enjoin the unit**  
5 **from defunding the law enforcement agency.**  
6           **Sec. 4. (a) In an action brought under section 3 of this chapter,**  
7 **there is a rebuttable presumption that a unit is defunding a law**  
8 **enforcement agency if the unit reduces the funding available to the**  
9 **law enforcement agency by five percent (5%) or more from the**  
10 **amount budgeted in the most recent budget.**  
11           **(b) If a court finds that the unit has defunded a law enforcement**  
12 **agency, the court shall:**  
13           **(1) enjoin the unit from defunding the law enforcement**  
14 **agency; and**  
15           **(2) require the unit to fund the law enforcement agency in an**  
16 **amount equal to:**  
17           **(A) the amount budgeted to the law enforcement agency in**  
18 **the previous budget; and**  
19           **(B) an adjustment to the amount described in clause (A),**  
20 **calculated based on the increase or decrease in:**  
21           **(i) the Consumer Price Index (CPI), consistent with 42**  
22 **U.S.C. 7661a, as calculated from the date of the previous**  
23 **budget; or**  
24           **(ii) tax receipts, grants, and other funds available to the**  
25 **unit, as calculated from the date of the previous budget;**  
26 **whichever is less.**

