

SENATE BILL No. 89

DIGEST OF INTRODUCED BILL

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

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

Effective: July 1, 2020.

Becker, Koch

January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 89



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

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

1 SECTION 1. IC 9-30-10-4, AS AMENDED BY P.L.201-2019,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 4. (a) A person who has accumulated at least two
4 (2) judgments within a ten (10) year period for any of the following
5 violations, singularly or in combination, and not arising out of the same
6 incident, is a habitual violator:
7 (1) Reckless homicide resulting from the operation of a motor
8 vehicle.
9 (2) Voluntary or involuntary manslaughter resulting from the
10 operation of a motor vehicle.
11 (3) Failure of the operator of a motor vehicle involved in an
12 accident resulting in death or injury to any person to stop at the
13 scene of the accident and give the required information and
14 assistance.
15 (4) Operation of a vehicle while intoxicated resulting in death.
16 (5) Before July 1, 1997, operation of a vehicle with at least
17 ten-hundredths percent (0.10%) alcohol in the blood resulting in



- 1 death.
- 2 (6) After June 30, 1997, and before July 1, 2001, operation of a
- 3 vehicle with an alcohol concentration equivalent to at least
- 4 ten-hundredths (0.10) gram of alcohol per:
- 5 (A) one hundred (100) milliliters of the blood; or
- 6 (B) two hundred ten (210) liters of the breath;
- 7 resulting in death.
- 8 (7) After June 30, 2001, operation of a vehicle with an alcohol
- 9 concentration equivalent to at least eight-hundredths (0.08) gram
- 10 of alcohol per:
- 11 (A) one hundred (100) milliliters of the blood; or
- 12 (B) two hundred ten (210) liters of the breath;
- 13 resulting in death.
- 14 (b) A person who has accumulated at least three (3) judgments
- 15 within a ten (10) year period for any of the following violations,
- 16 singularly or in combination, and not arising out of the same incident,
- 17 is a habitual violator:
- 18 (1) Operation of a vehicle while intoxicated.
- 19 (2) Before July 1, 1997, operation of a vehicle with at least
- 20 ten-hundredths percent (0.10%) alcohol in the blood.
- 21 (3) After June 30, 1997, and before July 1, 2001, operation of a
- 22 vehicle with an alcohol concentration equivalent to at least
- 23 ten-hundredths (0.10) gram of alcohol per:
- 24 (A) one hundred (100) milliliters of the blood; or
- 25 (B) two hundred ten (210) liters of the breath.
- 26 (4) After June 30, 2001, operation of a vehicle with an alcohol
- 27 concentration equivalent to at least eight-hundredths (0.08) gram
- 28 of alcohol per:
- 29 (A) one hundred (100) milliliters of the blood; or
- 30 (B) two hundred ten (210) liters of the breath.
- 31 (5) Reckless driving.
- 32 (6) Criminal recklessness as a felony involving the operation of
- 33 a motor vehicle.
- 34 (7) Drag racing or engaging in a speed contest in violation of law.
- 35 (8) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46
- 36 (repealed July 1, 1991), IC 9-26-1-1(1) (repealed January 1,
- 37 2015), IC 9-26-1-1(2) (repealed January 1, 2015), IC 9-26-1-2(1)
- 38 (repealed January 1, 2015), IC 9-26-1-2(2) (repealed January 1,
- 39 2015), IC 9-26-1-3 (repealed January 1, 2015), IC 9-26-1-4
- 40 (repealed January 1, 2015), or IC 9-26-1-1.1.
- 41 (9) Resisting law enforcement under IC 35-44.1-3-1(c)(1)(A),
- 42 ~~IC 35-44.1-3-1(c)(2); IC 35-44.1-3-1(c)(2)(A),~~



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

2 (10) Any felony under this title or any felony in which the
3 operation of a motor vehicle is an element of the offense.

4 A judgment for a violation enumerated in subsection (a) shall be added
5 to the violations described in this subsection for the purposes of this
6 subsection.

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

13 (1) a violation enumerated in subsection (a);

14 (2) a violation enumerated in subsection (b);

15 (3) operating a motor vehicle while the person's license to do so
16 has been suspended or revoked as a result of the person's
17 conviction of an offense under IC 9-1-4-52 (repealed July 1,
18 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-2, or
19 IC 9-24-19-3; or

20 (4) operating a motor vehicle without ever having obtained a
21 license to do so.

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

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

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

32 SECTION 2. IC 35-44.1-3-1, AS AMENDED BY P.L.184-2019,
33 SECTION 12, AND AS AMENDED BY P.L.201-2019, SECTION 3,
34 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) A person who knowingly or
36 intentionally:

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

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



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

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

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

13 (1) Level 6 felony if:

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

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

21 (2) Level 5 felony if:

22 (A) while committing ~~any~~ the offense, ~~described in subsection~~
 23 ~~(a)~~, the person operates a vehicle in a manner that causes
 24 serious bodily injury to another person; **or**

25 (B) **the person has two (2) or more prior unrelated**
 26 **convictions under this section;**

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

30 (4) Level 2 felony if, while committing any offense described in
 31 subsection (a), the person operates a vehicle in a manner that
 32 causes the death *or catastrophic injury* of a law enforcement
 33 officer while the law enforcement officer is engaged in the
 34 officer's official duties.

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

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

40 (2) one hundred eighty (180) days, if the person has one (1) prior
 41 unrelated conviction under this section; or
 42



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

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

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

8 (1) ~~subsection (b)(1)(A);~~ subsection (c)(1)(A), if the person
 9 exceeded the speed limit by at least twenty (20) miles per hour
 10 while committing the offense;

11 (2) ~~subsection (b)(2);~~ subsection ~~(e)(2);~~ **(c)(2)(A)**; or

12 (3) ~~subsection (b)(3);~~ subsection (c)(3);

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

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

24 ~~(g)~~ (h) *A person who commits an offense described in subsection ~~(b)~~*
 25 *(c) commits a separate offense for each person whose bodily injury,*
 26 *serious bodily injury, catastrophic injury, or death is caused by a*
 27 *violation of subsection ~~(b)~~. (c).*

28 ~~(h)~~ (i) *A court may order terms of imprisonment imposed on a*
 29 *person convicted of more than one (1) offense described in subsection*
 30 *~~(b)~~ (c) to run consecutively. Consecutive terms of imprisonment*
 31 *imposed under this subsection are not subject to the sentencing*
 32 *restrictions set forth in IC 35-50-1-2(c) through IC 35-50-1-2(d).*

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

37 (1) *was in the marked off area; and*

38 (2) *had suffered bodily injury or was at risk of suffering bodily*
 39 *injury;*

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

