



January 31, 2018

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## SENATE BILL No. 140

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DIGEST OF SB 140 (Updated January 30, 2018 10:45 am - DI 84)

**Citations Affected:** IC 35-45.

**Synopsis:** Maintaining a common nuisance. Provides a defense to the crime of maintaining a common nuisance if: (1) the location was not primarily used for specified unlawful acts; (2) the charged offense involves less than a specified quantity of marijuana, hashish, hash oil, or salvia or involves paraphernalia; and (3) the person does not have a prior unrelated conviction for maintaining a common nuisance.

**Effective:** July 1, 2018.

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### Bohacek, Young M, Tallian

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January 3, 2018, read first time and referred to Committee on Corrections and Criminal Law.  
January 30, 2018, reported favorably — Do Pass.

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SB 140—LS 6488/DI 106





January 31, 2018

Second Regular Session 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

## SENATE BILL No. 140

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

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

1 SECTION 1. IC 35-45-1-5, AS AMENDED BY P.L.86-2017,  
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 5. (a) As used in this section, "common nuisance"  
4 means a building, structure, vehicle, or other place that is used for (1)  
5 or more of the following purposes:  
6 (1) To buy an alcoholic beverage in violation of IC 7.1-5-10-5.  
7 (2) To unlawfully use, keep, or sell a legend drug.  
8 (3) To unlawfully:  
9 (A) use;  
10 (B) manufacture;  
11 (C) keep;  
12 (D) offer for sale;  
13 (E) sell;  
14 (F) deliver; or  
15 (G) finance the delivery of;  
16 a controlled substance or an item of drug paraphernalia (as  
17 described in IC 35-48-4-8.5).

SB 140—LS 6488/DI 106



- 1 (4) To provide a location for a person to pay, offer to pay, or agree  
 2 to pay money or other property to another person for an individual  
 3 whom the person knows has been forced into:  
 4 (A) forced labor;  
 5 (B) involuntary servitude; or  
 6 (C) prostitution or juvenile prostitution.
- 7 (5) To provide a location for a person to commit a violation of  
 8 IC 35-42-3.5-1(a) through IC 35-42-3.5-1(d) (human trafficking).
- 9 (b) A person who knowingly or intentionally visits a common  
 10 nuisance described in subsections (a)(1) through (a)(4) commits  
 11 visiting a common nuisance. The offense is a:  
 12 (1) Class B misdemeanor if the common nuisance is used for the  
 13 unlawful:  
 14 (A) sale of an alcoholic beverage as set forth in subsection  
 15 (a)(1);  
 16 (B) use, keeping, or sale of a legend drug as set forth in  
 17 subsection (a)(2); or  
 18 (C) use, manufacture, keeping, offer for sale, sale, delivery, or  
 19 financing the delivery of a controlled substance or item of drug  
 20 paraphernalia (as described in IC 35-48-4-8.5), as set forth in  
 21 subsection (a)(3);  
 22 (2) Class A misdemeanor if:  
 23 (A) the common nuisance is used as a location for a person to  
 24 pay, offer to pay, or agree to pay for a person who has been  
 25 forced into forced labor, involuntary servitude, prostitution, or  
 26 juvenile prostitution as set forth in subsection (a)(4); or  
 27 (B) the person knowingly, intentionally, or recklessly takes a  
 28 person less than eighteen (18) years of age or an endangered  
 29 adult (as defined in IC 12-10-3-2) into a common nuisance  
 30 used to unlawfully:  
 31 (i) use;  
 32 (ii) manufacture;  
 33 (iii) keep;  
 34 (iv) offer for sale;  
 35 (v) sell;  
 36 (vi) deliver; or  
 37 (vii) finance the delivery of;  
 38 a controlled substance or an item of drug paraphernalia, as set  
 39 forth in subsection (a)(3); and  
 40 (3) Level 6 felony if the person:  
 41 (A) knowingly, intentionally, or recklessly takes a person less  
 42 than eighteen (18) years of age or an endangered adult (as



- 1 defined in IC 12-10-3-2) into a common nuisance used to  
 2 unlawfully:
- 3 (i) use;
  - 4 (ii) manufacture;
  - 5 (iii) keep;
  - 6 (iv) offer for sale;
  - 7 (v) sell;
  - 8 (vi) deliver; or
  - 9 (vii) finance the delivery of;
- 10 a controlled substance or an item of drug paraphernalia, as set  
 11 forth in subsection (a)(3); and
- 12 (B) has a prior unrelated conviction for a violation of this  
 13 section involving a controlled substance or drug paraphernalia.
- 14 (c) A person who knowingly or intentionally maintains a common  
 15 nuisance commits maintaining a common nuisance, a Level 6 felony.
- 16 **(d) It is a defense to a prosecution under subsection (c) that:**
- 17 **(1) the building, structure, vehicle, or other place is not**  
 18 **primarily used for an unlawful purpose described in**  
 19 **subsection (a);**
  - 20 **(2) the offense involves the unlawful use or keeping of:**
    - 21 **(A) less than:**
      - 22 **(i) thirty (30) grams of marijuana; or**
      - 23 **(ii) five (5) grams of hash oil, hashish, or salvia; or**
    - 24 **(B) an item of drug paraphernalia (as described in**  
 25 **IC 35-48-4-8.5) that is designed for use with, or intended to**  
 26 **be used for, marijuana, hash oil, hashish, or salvia; and**
  - 27 **(3) the person does not have a prior unrelated conviction for**  
 28 **a violation of subsection (c).**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 140, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 140 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 1

