

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE ENROLLED ACT No. 227

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

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

SECTION 1. IC 2-5-36-9, AS ADDED BY P.L.119-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. The commission shall do the following:

- (1) Study and evaluate the following:
 - (A) Access to services for vulnerable youth.
 - (B) Availability of services for vulnerable youth.
 - (C) Duplication of services for vulnerable youth.
 - (D) Funding of services available for vulnerable youth.
 - (E) Barriers to service for vulnerable youth.
 - (F) Communication and cooperation by agencies concerning vulnerable youth.
 - (G) Implementation of programs or laws concerning vulnerable youth.
 - (H) The consolidation of existing entities that serve vulnerable youth.
 - (I) Data from state agencies relevant to evaluating progress, targeting efforts, and demonstrating outcomes.
 - (J) Crimes of sexual violence against children.**
 - (K) The impact of social networking web sites, cellular telephones and wireless communications devices, digital media, and new technology on crimes against children.**
- (2) Review and make recommendations concerning pending

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legislation.

- (3) Promote information sharing concerning vulnerable youth across the state.
- (4) Promote best practices, policies, and programs.
- (5) Cooperate with:
 - (A) other child focused commissions;
 - (B) the judicial branch of government;
 - (C) the executive branch of government;
 - (D) stakeholders; and
 - (E) members of the community.
- (6) Submit a report not later than July 1 of each year regarding the commission's work during the previous year. The report shall be submitted to the legislative council, the governor, and the chief justice of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 2. IC 7.1-5-1-6.5, AS ADDED BY P.L.93-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. (a) A law enforcement officer may not take a person into custody based solely on the commission of an offense involving alcohol described in subsection (b) if the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that all of the following apply:

- (1) The law enforcement officer has contact with the person because the person:
 - (A) either:
 - ~~(A)~~ (i) requested emergency medical assistance; or
 - ~~(B)~~ (ii) 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 alcohol consumption.~~
 - (B) is the victim of a reported sex offense (as defined in IC 11-8-8-5.2); or**
 - (C) witnessed and reported what the person reasonably believed to be a crime.**
- (2) The person described in subdivision (1)(A), ~~or~~ (1)(B), **or** (1)(C):
 - (A) provided:
 - (i) the person's full name; and
 - (ii) any other relevant information requested by the law enforcement officer; **and**
 - (B) in the case of a person described in subdivision (1)(A):**

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~~(B)~~ (i) remained at the scene with the individual who reasonably appeared to be in need of medical assistance ~~due to alcohol consumption~~ until emergency medical assistance arrived; and

~~(C)~~ (ii) cooperated with emergency medical assistance personnel and law enforcement officers at the scene.

(b) A person who meets the criteria of subsection (a)(1) and (a)(2) is immune from criminal prosecution for an offense under:

(1) section 3 of this chapter if the offense involved a state of intoxication caused by the person's use of alcohol;

(2) section 6 of this chapter if the offense involved the person being, or becoming, intoxicated as a result of the person's use of alcohol; and

(3) IC 7.1-5-7-7.

(c) A person may not initiate or maintain an action against a law enforcement officer based on the officer's compliance or failure to comply with this section.

SECTION 3. IC 7.1-5-1-6.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) This section applies only to a person:**

(1) arrested for a violation of:

(A) section 3 of this chapter if the offense involved a state of intoxication caused by the person's use of alcohol;

(B) section 6 of this chapter if the offense involved the person being, or becoming, intoxicated as a result of the person's use of alcohol; or

(C) IC 7.1-5-7-7; and

(2) whose arrest was facilitated because another person reported that the person appeared to be in need of medical assistance due to the use of alcohol.

(b) If a person described in subsection (a):

(1) does not have a prior conviction for an offense described in subsection (a);

(2) pleads guilty to an offense described in subsection (a); and

(3) agrees to be placed in the custody of the court;

the court, without entering a judgment of conviction, shall defer further proceedings and place the person in the custody of the court under conditions determined by the court.

(c) If the person placed in the custody of the court violates the conditions of custody, the court may enter a judgment of conviction. However, if the person fulfills the conditions of the



custody, the court shall dismiss the charges against the person.

(d) There may be only one (1) dismissal under this section with respect to a person.

SECTION 4. IC 16-18-2-88.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 88.5. "Crime of domestic or sexual violence" means a sex offense (as defined in IC 11-8-8-5.2) or a crime of domestic violence (as defined in IC 35-31.5-2-78). The term includes a delinquent act that would be a sex offense or a crime of domestic violence if committed by an adult.**

SECTION 5. IC 16-18-2-263.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 263.9. "Overdose intervention drug", for purposes of IC 16-31, means naloxone or any other drug that:**

- (1) is an opioid, opiate, or morphine antagonist; and
- (2) prevents or reverses the effects of:
 - (A) opioids;
 - (B) opiates; or
 - (C) morphine;

including respiratory depression, sedation, and hypotension.

SECTION 6. IC 16-19-13-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 7. (a) Before July 1, 2015, the office or the state department shall conduct a study to do the following:**

- (1) Determine the extent to which crimes of domestic or sexual violence are underreported.
- (2) Identify which crimes of domestic or sexual violence are more commonly underreported.
- (3) Investigate differences between the reporting of crimes of domestic or sexual violence committed:
 - (A) against children;
 - (B) against adults;
 - (C) in urban areas;
 - (D) in suburban areas; and
 - (E) in rural areas.
- (4) Investigate and identify reasons why the victims of unreported crimes of domestic or sexual violence do not report these crimes, both in general and with reference to specific crimes.
- (5) Study and evaluate methods for improving the reporting of underreported crimes of domestic or sexual violence.



- (6) Study and evaluate resources available to educate potential victims of crimes of domestic or sexual violence.**
 - (7) Evaluate best practices to connect victims of crimes of domestic or sexual violence with appropriate therapeutic and other resources.**
 - (8) Make recommendations concerning best practices to:**
 - (A) improve the reporting of underreported crimes of domestic or sexual violence;**
 - (B) provide resources for persons who are the victims of crimes of domestic or sexual violence; and**
 - (C) make educational, therapeutic, and other resources available to victims of crimes of domestic or sexual violence who may have not reported the crimes.**
- (b) The study described in subsection (a) must include the following:**
- (1) The use of GIS (as defined in IC 25-21.5-1-3.5) mapping to detect patterns of reported and unreported crimes of domestic or sexual violence, and follow-up investigations to study areas with high and low reporting rates.**
 - (2) At least two (2) separate surveys to quantify underreporting.**
 - (3) One (1) of the surveys described in subdivision (2) must:**
 - (A) be conducted by professionals who have expertise in analyzing communication and understanding the social norms and cultural pressures that affect whether the victim of a crime of domestic or sexual violence reports the crime or not; and**
 - (B) in order to capture unreported crimes of domestic or sexual violence, focus on surveying individuals (including teachers, coaches, pastors, and other mentors) who may know of unreported crimes of domestic or sexual violence, with the purpose of studying the perspective that these individuals have concerning the reasons the victims did not report the crimes. These surveys shall be conducted anonymously, and, to the extent that the person interviewed had a duty to report the crime and did not report the crime, the survey must determine what factors made the person reluctant to report the crime.**
 - (4) The second survey described in subdivision (2) must be modeled on studies conducted by the national Centers for Disease Control and Prevention's Academic Centers of Excellence and involve a survey of persons who were the**



victims of a crime of domestic or sexual violence when they were younger, but who did not report the crime until they were older. The purpose of this survey is to obtain the victim's insight into the reason the victim did not report the crime of domestic or sexual violence.

(5) After evaluating the surveys described in subdivision (2), researchers performing the study must conduct in depth interviews with individuals and focus groups. The interviews and focus groups must be conducted in different geographical areas of the state, and contain a mix of urban, suburban, and rural areas. Persons interviewed must include:

- (A) groups or individuals who have reported crimes of domestic or sexual violence;
- (B) groups or individuals who have not reported crimes of domestic or sexual violence; and
- (C) teachers and other persons who have insight into students' lives and have perspective into the cultural dynamics that give rise to the problem of crimes of domestic or sexual violence as well as the reasons a person may have for not reporting the crime.

The professionals who conduct these interviews must have diverse backgrounds and must be skilled at eliciting subtle information from the persons they interview.

(6) At the conclusion of the interviews described in subdivision (5), the information from the surveys and interviews shall be evaluated and assembled by a data analysis group that shall draw conclusions and make appropriate recommendations.

(c) The office or state department may contract with a third party to conduct the study described in this section.

(d) Information contained in a study described in this section that identifies or could be used to determine the identity of a child or adult participating in the study is confidential. All other information contained in the study is not confidential and is available for inspection and copying under IC 5-14-3.

(e) The office or state department shall provide a copy of the study to the legislative council in an electronic format under IC 5-14-6.

(f) This section expires June 30, 2016.

SECTION 7. IC 16-31-2-9, AS AMENDED BY P.L.77-2012, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The commission shall establish the



following:

- (1) Standards for persons who provide emergency medical services and who are not licensed or regulated under IC 16-31-3.
- (2) Training standards for the administration of antidotes, vaccines, and antibiotics to prepare for or respond to a terrorist or military attack.
- (3) Training and certification standards for the administration of epinephrine through an auto-injector by an emergency medical technician.
- (4) Training standards to permit the use of antidote kits containing atropine and pralidoxime chloride for the treatment of exposure to nerve agents by an emergency medical technician or an emergency medical responder.
- (5) Standards for distribution, administration, use, and training in the use of an overdose intervention drug.**

SECTION 8. IC 16-31-3-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23.5. (a) The following may administer an overdose intervention drug to an individual who is suffering from an overdose:**

- (1) An advanced emergency medical technician.**
- (2) An emergency medical responder.**
- (3) An emergency medical technician.**
- (4) A firefighter or volunteer firefighter.**
- (5) A law enforcement officer.**
- (6) A paramedic.**

(b) A health care provider who is licensed in Indiana and whose scope of practice includes the prescribing of medication may write a prescription, drug order, or protocol for an overdose intervention drug for any of the following:

- (1) An advanced emergency medical technician.**
- (2) An emergency medical responder.**
- (3) An emergency medical technician.**
- (4) A fire department or volunteer fire department.**
- (5) A law enforcement agency.**
- (6) A paramedic.**

(c) A pharmacist licensed under IC 25-26 may dispense a valid prescription, drug order, or protocol for an overdose intervention drug issued in the name of any of the following:

- (1) An advanced emergency medical technician.**
- (2) An emergency medical responder.**
- (3) An emergency medical technician.**

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(4) A fire department or volunteer fire department.

(5) A law enforcement agency.

(6) A paramedic.

SECTION 9. IC 16-31-6-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) Except for an act of gross negligence or willful misconduct, an advanced emergency medical technician, an emergency medical responder, an emergency medical technician, a firefighter or volunteer firefighter, a law enforcement officer, or a paramedic who administers an overdose intervention drug according to standards established by:**

(1) the department or agency that oversees the individual's employment in providing emergency medical services; or

(2) the commission under IC 16-31-2-9;

to an individual suffering from an overdose is immune from civil liability for acts or omissions when administering the drug.

(b) If:

(1) an advanced emergency medical technician;

(2) an emergency medical responder;

(3) an emergency medical technician;

(4) a firefighter or volunteer firefighter;

(5) a law enforcement officer; or

(6) a paramedic;

is immune from civil liability for the individual's act or omission, a person who has only an agency relationship with the advanced emergency medical technician, emergency medical responder, emergency medical technician, firefighter or volunteer firefighter, law enforcement officer, or paramedic is also immune from civil liability for the act or omission.

SECTION 10. IC 34-31-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. IC 16-31-6-2.5 (Concerning certain persons who administer an overdose intervention drug).**

SECTION 11. IC 35-38-1-7.1, AS AMENDED BY P.L.126-2012, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **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.
- (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.

(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.

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) The general assembly urges the legislative council to assign to the appropriate study committee the task of studying the causes of violence and violent crime in Indiana.



(b) If an appropriate study committee is assigned the topic described in subsection (a), the committee shall issue to the legislative council a final report containing the committee's findings and recommendations, including any recommended legislation concerning the topic, in an electronic format under IC 5-14-6, not later than November 1, 2014.

(c) This SECTION expires January 1, 2015.

SECTION 13. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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