



Reprinted
February 2, 2018

SENATE BILL No. 292

DIGEST OF SB 292 (Updated February 1, 2018 3:13 pm - DI 106)

Citations Affected: IC 31-30; IC 34-30; IC 35-31.5; IC 35-38; IC 35-43; IC 35-45; IC 35-50.

Synopsis: Criminal law matters. Repeals the offense of auto theft and receiving stolen auto parts. Provides that a person who knowingly or intentionally exerts unauthorized control of a motor vehicle or a component part of a motor vehicle, with the intent to deprive the other person of any part of its value or use, commits theft, a Level 6 felony. Provides that a person who knowingly or intentionally exerts unauthorized control of a motor vehicle or a component part of a motor vehicle, with the intent to deprive the other person of any part of its value or use, and has a prior unrelated conviction for a qualifying offense, commits theft, a Level 5 felony. Defines "qualifying offense". Prohibits the expunged conviction records of an undocumented alien to be sealed or redacted. Prohibits a minor in adult court to waive, as part of a plea agreement, the right to transfer jurisdiction to juvenile court for adjudication and disposition under certain circumstances. Amends the statute concerning the suspension of a sentence for a person with a juvenile record. Makes conforming amendments.

Effective: July 1, 2018.

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January 4, 2018, read first time and referred to Committee on Corrections and Criminal Law.

January 30, 2018, reported favorably — Do Pass.

February 1, 2018, read second time, amended, ordered engrossed.

SB 292—LS 6978/DI 131



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February 2, 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. 292

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 31-30-1-4, AS AMENDED BY P.L.28-2016,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 4. (a) The juvenile court does not have jurisdiction
4 over an individual for an alleged violation of:
5 (1) IC 35-41-5-1(a) (attempted murder);
6 (2) IC 35-42-1-1 (murder);
7 (3) IC 35-42-3-2 (kidnapping);
8 (4) IC 35-42-4-1 (rape);
9 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
10 (6) IC 35-42-5-1 (robbery) if:
11 (A) the robbery was committed while armed with a deadly
12 weapon; or
13 (B) the robbery results in bodily injury or serious bodily
14 injury;
15 (7) IC 35-42-5-2 (carjacking) (before its repeal);
16 (8) IC 35-47-2-1 (carrying a handgun without a license), if
17 charged as a felony;

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(9) IC 35-47-10 (children and firearms), if charged as a felony; or
 (10) any offense that may be joined under IC 35-34-1-9(a)(2) with
 any crime listed in this subsection;
 if the individual was at least sixteen (16) years of age but less than
 eighteen (18) years of age at the time of the alleged violation.

(b) Once an individual described in subsection (a) has been charged
 with any offense listed in subsection (a), the court having adult
 criminal jurisdiction shall retain jurisdiction over the case if the
 individual pleads guilty to or is convicted of any offense listed in
 subsection (a)(1) through (a)(9).

(c) If:

(1) an individual described in subsection (a) is charged with one
 (1) or more offenses listed in subsection (a);
 (2) all the charges under subsection (a)(1) through (a)(9) resulted
 in an acquittal or were dismissed; and
 (3) the individual pleads guilty to or is convicted of any offense
 other than an offense listed in subsection (a)(1) through (a)(9);
 the court having adult criminal jurisdiction may withhold judgment and
 transfer jurisdiction to the juvenile court for adjudication and
 disposition. In determining whether to transfer jurisdiction to the
 juvenile court for adjudication and disposition, the court having adult
 criminal jurisdiction shall consider whether there are appropriate
 services available in the juvenile justice system, whether the child is
 amenable to rehabilitation under the juvenile justice system, and
 whether it is in the best interests of the safety and welfare of the
 community that the child be transferred to juvenile court. All orders
 concerning release conditions remain in effect until a juvenile court
 detention hearing, which must be held not later than forty-eight (48)
 hours, excluding Saturdays, Sundays, and legal holidays, after the order
 of transfer of jurisdiction.

**(d) As part of a plea agreement, an individual described in
 subsection (a) may not waive the right to transfer jurisdiction to
 juvenile court for adjudication and disposition if the individual
 meets the requirements described in subsection (c). Any purported
 waiver of the right to transfer jurisdiction to juvenile court for
 adjudication and disposition in a plea agreement is invalid and
 unenforceable as against public policy.**

SECTION 2. IC 34-30-20-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. A person is immune
 from civil liability based on an act or omission related to the use of a
 firearm or ammunition for a firearm by another person if the other
 person directly or indirectly obtained the firearm or ammunition for a



firearm through the commission of the following:

- (1) Burglary (IC 35-43-2-1).
- (2) Robbery (IC 35-42-5-1).
- (3) Theft (IC 35-43-4-2).
- (4) Receiving stolen property (IC 35-43-4-2) **(before its amendment on July 1, 2018).**
- (5) Criminal conversion (IC 35-43-4-3).

SECTION 3. IC 35-31.5-2-15, AS AMENDED BY P.L.13-2013, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 15. "Alien", for purposes of **IC 35-38-9-6 and IC 35-44.1-5**, has the meaning set forth in IC 35-44.1-5-2.

SECTION 4. IC 35-31.5-2-264.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 264.8. "Qualifying offense", for purposes of IC 35-43-4-2, has the meaning set forth in IC 35-43-4-1(d).**

SECTION 5. IC 35-38-3-5, AS AMENDED BY P.L.158-2013, SECTION 402, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) The department, after diagnosis and classification, shall:

- (1) determine the degree of security (maximum, medium, or minimum) to which a convicted person will be assigned;
- (2) for each offender convicted of a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) whose sentence for the Class D felony or Level 6 felony is nonsuspendible at the time of the offense under:
 - (A) ~~IC 35-50-2-2.1(a)(1)(B)~~; **IC 35-50-2-2.1(b)(1)(B)**;
 - (B) ~~IC 35-50-2-2.1(a)(1)(C)~~; **IC 35-50-2-2.1(b)(1)(C)**; ~~or~~
 - (C) ~~IC 35-50-2-2.1(a)(2)~~; **IC 35-50-2-2.1(b)(1)(E)**;
 - (D) IC 35-50-2-2.1(b)(1)(F); or**
 - (E) IC 35-50-2-2.1(b)(2);**

determine whether the offender is an appropriate candidate for home detention under IC 35-38-2.5;

- (3) for each offender:
 - (A) committed to the department because the offender has been convicted for the first time of a Class C or Class D felony (for a crime committed before July 1, 2014) or a Level 5 or Level 6 felony (for a crime committed after June 30, 2014); and
 - (B) whose sentence may be suspended;
 determine whether the offender is an appropriate candidate for



home detention under IC 35-38-2.5;

(4) notify the trial court and prosecuting attorney if the degree of security assigned differs from the court's recommendations; and
 (5) petition the sentencing court under IC 35-38-1-21 for review of the sentence of an offender who is not a habitual offender sentenced under IC 35-50-2-8 or IC 35-50-2-10 (repealed), and who the department has determined under subdivision (2) to be an appropriate candidate for home detention.

(b) The department may change the degree of security to which the person is assigned. However, if the person is changed to a lesser degree security during the first two (2) years of the commitment, the department shall notify the trial court and the prosecuting attorney not less than thirty (30) days before the effective date of the changed security assignment.

SECTION 6. IC 35-38-9-6, AS AMENDED BY P.L.198-2016, SECTION 671, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. (a) **Except as provided in subsection (h)**, if the court orders conviction records expunged under sections 2 through 3 of this chapter, the court shall do the following with respect to the specific records expunged by the court:

(1) Order:

(A) the department of correction;

(B) the bureau of motor vehicles; and

(C) each:

(i) law enforcement agency; and

(ii) other person;

who incarcerated, provided treatment for, or provided other services for the person under an order of the court;

to prohibit the release of the person's records or information in the person's records to anyone without a court order, other than a law enforcement officer acting in the course of the officer's official duty.

(2) Order the central repository for criminal history information maintained by the state police department to seal the person's expunged conviction records. Records sealed under this subdivision may be disclosed only to:

(A) a prosecuting attorney, if:

(i) authorized by a court order; and

(ii) needed to carry out the official duties of the prosecuting attorney;

(B) a defense attorney, if:

(i) authorized by a court order; and



- 1 (ii) needed to carry out the professional duties of the defense
- 2 attorney;
- 3 (C) a probation department, if:
- 4 (i) authorized by a court order; and
- 5 (ii) necessary to prepare a presentence report;
- 6 (D) the Federal Bureau of Investigation and the Department of
- 7 Homeland Security, if disclosure is required to comply with an
- 8 agreement relating to the sharing of criminal history
- 9 information;
- 10 (E) the:
- 11 (i) supreme court;
- 12 (ii) members of the state board of law examiners;
- 13 (iii) executive director of the state board of law examiners;
- 14 and
- 15 (iv) employees of the state board of law examiners, in
- 16 accordance with rules adopted by the state board of law
- 17 examiners;
- 18 for the purpose of determining whether an applicant possesses
- 19 the necessary good moral character for admission to the bar;
- 20 (F) a person required to access expunged records to comply
- 21 with the Secure and Fair Enforcement for Mortgage Licensing
- 22 Act (12 U.S.C. 5101 et seq.) or regulations adopted under the
- 23 Secure and Fair Enforcement for Mortgage Licensing Act; and
- 24 (G) the bureau of motor vehicles, the Federal Motor Carrier
- 25 Administration, and the Commercial Drivers License
- 26 Information System (CDLIS), if disclosure is required to
- 27 comply with federal law relating to reporting a conviction for
- 28 a violation of a traffic control law.
- 29 (3) Notify the clerk of the supreme court to seal any records in the
- 30 clerk's possession that relate to the conviction.
- 31 A probation department may provide an unredacted version of a
- 32 presentence report disclosed under subdivision (2)(C) to any person
- 33 authorized by law to receive a presentence report.
- 34 (b) Except as provided in ~~subsection (c)~~, **subsections (c) and (h)**,
- 35 if a petition to expunge conviction records is granted under sections 2
- 36 through 3 of this chapter, the records of:
- 37 (1) the sentencing court;
- 38 (2) a juvenile court;
- 39 (3) a court of appeals; and
- 40 (4) the supreme court;
- 41 concerning the person shall be permanently sealed. However, a petition
- 42 for expungement granted under sections 2 through 3 of this chapter



1 does not affect an existing or pending driver's license suspension.

2 (c) **Except as provided in subsection (h)**, if a petition to expunge
3 conviction records is granted under sections 2 through 3 of this chapter
4 with respect to the records of a person who is named as an appellant or
5 an appellee in an opinion or memorandum decision by the supreme
6 court or the court of appeals, the court shall:

7 (1) redact the opinion or memorandum decision as it appears on
8 the computer gateway administered by the office of technology so
9 that it does not include the petitioner's name (in the same manner
10 that opinions involving juveniles are redacted); and

11 (2) provide a redacted copy of the opinion to any publisher or
12 organization to whom the opinion or memorandum decision is
13 provided after the date of the order of expungement.

14 The supreme court and court of appeals are not required to destroy or
15 otherwise dispose of any existing copy of an opinion or memorandum
16 decision that includes the petitioner's name.

17 (d) Notwithstanding subsection (b), a prosecuting attorney may
18 submit a written application to a court that granted an expungement
19 petition under this chapter to gain access to any records that were
20 permanently sealed under subsection (b), if the records are relevant in
21 a new prosecution of the person. If a prosecuting attorney who submits
22 a written application under this subsection shows that the records are
23 relevant for a new prosecution of the person, the court that granted the
24 expungement petition shall:

25 (1) order the records to be unsealed; and

26 (2) allow the prosecuting attorney who submitted the written
27 application to have access to the records.

28 If a court orders records to be unsealed under this subsection, the court
29 shall order the records to be permanently resealed at the earliest
30 possible time after the reasons for unsealing the records cease to exist.
31 However, if the records are admitted as evidence against the person in
32 a new prosecution that results in the person's conviction, or are used to
33 enhance a sentence imposed on the person in a new prosecution, the
34 court is not required to reseat the records.

35 (e) If a person whose conviction records are expunged under
36 sections 2 through 5 of this chapter is required to register as a sex
37 offender based on the commission of a felony which has been
38 expunged:

39 (1) the expungement does not affect the operation of the sex
40 offender registry web site, any person's ability to access the
41 person's records, records required to be maintained concerning
42 sex or violent offenders, or any registration requirement imposed



on the person; and

(2) the expunged conviction must be clearly marked as expunged on the sex offender registry web site.

(f) Expungement of a crime of domestic violence under section 2 of this chapter does not restore a person's right to possess a firearm. The right of a person convicted of a crime of domestic violence to possess a firearm may be restored only in accordance with IC 35-47-4-7.

(g) If the court issues an order granting a petition for expungement under sections 2 through 3 of this chapter, the court shall include in its order the information described in section 8(b) of this chapter.

(h) Expunged conviction records of an undocumented alien under sections 2 through 3 of this chapter may not be ordered sealed or redacted.

SECTION 7. IC 35-43-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) As used in this chapter, "exert control over property" means to obtain, take, carry, drive, lead away, conceal, abandon, sell, convey, encumber, or possess property, or to secure, transfer, or extend a right to property.

(b) Under this chapter, a person's control over property of another person is "unauthorized" if it is exerted:

(1) without the other person's consent;

(2) in a manner or to an extent other than that to which the other person has consented;

(3) by transferring or encumbering other property while failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of that other property;

(4) by creating or confirming a false impression in the other person;

(5) by failing to correct a false impression that the person knows is influencing the other person, if the person stands in a relationship of special trust to the other person;

(6) by promising performance that the person knows will not be performed;

(7) by expressing an intention to damage the property or impair the rights of any other person; or

(8) by transferring or reproducing:

(A) recorded sounds; or

(B) a live performance;

without consent of the owner of the master recording or the live performance, with intent to distribute the reproductions for a profit.

(c) As used in this chapter, "receiving" means acquiring possession or control of or title to property, or lending on the security of property.



(d) As used in this chapter, "qualifying offense" means the following:

- (1) Theft (IC 35-43-4-2).
- (2) Auto theft (IC 35-43-4-2.5) (before its repeal).
- (3) Criminal conversion (IC 35-43-4-3).
- (4) Robbery (IC 35-42-5-1(a) and IC 35-42-5-1(b)).
- (5) Burglary (IC 35-43-2-1).
- (6) Residential entry (IC 35-43-2-1.5).
- (7) Counterfeiting (IC 35-43-5-2(a)).
- (8) Making or delivering a false sales document (IC 35-43-5-2(b)).
- (9) Possession of a fraudulent sales document (IC 35-43-5-2(c)).
- (10) Forgery (IC 35-43-5-2(d)).
- (11) Terroristic deception (IC 35-43-5-3.6).
- (12) Fraud (IC 35-43-5-4).
- (13) Unlawful possession of a card skimming device (IC 35-43-5-4.3).
- (14) Insurance fraud (IC 35-43-5-4.5(a) and IC 35-43-5-4.5(b)).
- (15) Unlawful sale or possession of a transaction manipulation device (IC 35-43-5-4.6).
- (16) Check deception (IC 35-43-5-5).
- (17) Welfare fraud (IC 35-43-5-7).
- (18) Medicaid fraud (IC 35-43-5-7.1).
- (19) Insurance fraud (IC 35-43-5-7.2).
- (20) Fraud on financial institutions (IC 35-43-5-8).
- (21) Check fraud (IC 35-43-5-12).
- (22) Possession of a fraudulent sales document manufacturing device (IC 35-43-5-15).
- (23) Making a false sales document (IC 35-43-5-16).
- (24) Home improvement fraud (IC 35-43-6-12).
- (25) An attempt or conspiracy to commit an offense described in this subsection.

SECTION 8. IC 35-43-4-2, AS AMENDED BY P.L.166-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class A misdemeanor. However, the offense is:

- (1) a Level 6 felony if:
 - (A) the value of the property is at least seven hundred fifty



dollars (\$750) and less than fifty thousand dollars (\$50,000);

(B) the property is a:

(i) firearm; ~~or~~

(ii) motor vehicle (as defined in IC 9-13-2-105(a)); or

(iii) component part (as defined in IC 9-13-2-34) of a motor vehicle; or

(C) the person has a prior unrelated conviction for

(i) theft under this section; or

(ii) criminal conversion under section 3 of this chapter; and

(2) a Level 5 felony if:

(A) the value of the property is at least fifty thousand dollars (\$50,000); ~~or~~

(B) the property that is the subject of the theft is a valuable metal (as defined in IC 25-37.5-1-1) and:

(i) relates to transportation safety;

(ii) relates to public safety; or

(iii) is taken from a hospital or other health care facility, telecommunications provider, public utility (as defined in IC 32-24-1-5.9(a)), or key facility;

and the absence of the property creates a substantial risk of bodily injury to a person; **or**

(C) the property is a:

(i) motor vehicle (as defined in IC 9-13-2-105(a)); or

(ii) component part (as defined in IC 9-13-2-34) of a motor vehicle; and

the person has a prior unrelated conviction for a qualifying offense.

(b) For purposes of this section, "the value of property" means:

(1) the fair market value of the property at the time and place the offense was committed; or

(2) if the fair market value of the property cannot be satisfactorily determined, the cost to replace the property within a reasonable time after the offense was committed.

A price tag or price marking on property displayed or offered for sale constitutes prima facie evidence of the value of the property.

SECTION 9. IC 35-43-4-2.5 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 2.5: (a) ~~As used in this section, "motor vehicle" has the meaning set forth in IC 9-13-2-105(a).~~

(b) ~~A person who knowingly or intentionally exerts unauthorized control over the motor vehicle of another person; with intent to deprive the owner of:~~

~~(1) the vehicle's value or use; or~~



(2) a component part (as defined in IC 9-13-2-34) of the vehicle; commits auto theft, a Level 6 felony.

(c) A person who knowingly or intentionally receives, retains, or disposes of a motor vehicle or any part of a motor vehicle of another person that has been the subject of theft commits receiving stolen auto parts, a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction under this subsection or under subsection (b).

SECTION 10. IC 35-45-6-1, AS AMENDED BY P.L.252-2017, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) "Enterprise" means:

(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

(e) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

(1) A provision of IC 23-19, or of a rule or order issued under IC 23-19.

(2) A violation of IC 35-45-9.

(3) A violation of IC 35-47.

(4) A violation of IC 35-49-3.

(5) Murder (IC 35-42-1-1).

(6) Battery as a Class C felony before July 1, 2014, or a Level 5 felony after June 30, 2014 (IC 35-42-2-1).

(7) Kidnapping (IC 35-42-3-2).

(8) Human and sexual trafficking crimes (IC 35-42-3.5).



- 1 (9) Child exploitation (IC 35-42-4-4).
- 2 (10) Robbery (IC 35-42-5-1).
- 3 (11) Carjacking (IC 35-42-5-2) (before its repeal).
- 4 (12) Arson (IC 35-43-1-1).
- 5 (13) Burglary (IC 35-43-2-1).
- 6 (14) Theft (IC 35-43-4-2).
- 7 (15) Receiving stolen property (IC 35-43-4-2) **(before its**
- 8 **amendment on July 1, 2018).**
- 9 (16) Forgery (IC 35-43-5-2).
- 10 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
- 11 (18) Bribery (IC 35-44.1-1-2).
- 12 (19) Official misconduct (IC 35-44.1-1-1).
- 13 (20) Conflict of interest (IC 35-44.1-1-4).
- 14 (21) Perjury (IC 35-44.1-2-1).
- 15 (22) Obstruction of justice (IC 35-44.1-2-2).
- 16 (23) Intimidation (IC 35-45-2-1).
- 17 (24) Promoting prostitution (IC 35-45-4-4).
- 18 (25) Professional gambling (IC 35-45-5-3).
- 19 (26) Maintaining a professional gambling site
- 20 (IC 35-45-5-3.5(b)).
- 21 (27) Promoting professional gambling (IC 35-45-5-4).
- 22 (28) Dealing in or manufacturing cocaine or a narcotic drug
- 23 (IC 35-48-4-1).
- 24 (29) Dealing in methamphetamine (IC 35-48-4-1.1).
- 25 (30) Manufacturing methamphetamine (IC 35-48-4-1.2).
- 26 (31) Dealing in a schedule I, II, or III controlled substance
- 27 (IC 35-48-4-2).
- 28 (32) Dealing in a schedule IV controlled substance
- 29 (IC 35-48-4-3).
- 30 (33) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 31 (34) Dealing in marijuana, hash oil, hashish, or salvia
- 32 (IC 35-48-4-10).
- 33 (35) Money laundering (IC 35-45-15-5).
- 34 (36) A violation of IC 35-47.5-5.
- 35 (37) A violation of any of the following:
- 36 (A) IC 23-14-48-9.
- 37 (B) IC 30-2-9-7(b).
- 38 (C) IC 30-2-10-9(b).
- 39 (D) IC 30-2-13-38(f).
- 40 (38) Practice of law by a person who is not an attorney
- 41 (IC 33-43-2-1).
- 42 (39) Dealing in a synthetic drug or synthetic drug lookalike



substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).

SECTION 11. IC 35-50-2-2.1, AS AMENDED BY P.L.168-2014, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2.1. (a) Except as provided in ~~subsection~~ **subsections (b), (c), (d), or (e)**, the court may ~~not~~ suspend **any part of** a sentence for a felony. ~~for a person with a juvenile record when:~~

~~(+) the juvenile record includes findings that the juvenile acts, if committed by an adult, would constitute:~~

(b) Except as provided in subsection (d), if:

(1) a person is convicted of a Level 2 or Level 3 felony, except a Level 2 or Level 3 felony concerning a controlled substance under IC 35-48-4, and has any prior unrelated juvenile adjudication that would be, if committed by an adult:

(A) one (1) Class A or Class B felony;

(B) two (2) Class C or Class D felonies;

(C) one (1) Class C and one (1) Class D felony;

(D) one (1) Level 1, Level 2, Level 3, or Level 4 felony;

(E) two (2) Level 5 or Level 6 felonies; or

(F) one (1) Level 5 and one (1) Level 6 felony; and

(2) less than three (3) years have elapsed between commission of the juvenile acts that would be felonies if committed by an adult and the commission of the felony for which the person is being sentenced;

the court may suspend only that part of a sentence that is in excess of the minimum sentence for the Level 2 or Level 3 felony.

(c) If:

(1) a person has a prior juvenile adjudication for an act that would be a felony if committed by an adult in any jurisdiction for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense; and

(2) the person is convicted of a Level 2 felony under IC 35-48-4-1.1 or IC 35-48-4-1.2;

the court may suspend only that part of a sentence that is in excess of the minimum sentence for the Level 2 felony.

(d) If a person:

(1) is convicted of dealing in heroin as a Level 2 or Level 3 felony under IC 35-48-4-1 or IC 35-48-4-2; and

(2) has a prior unrelated juvenile adjudication for an act that would be a felony if committed by an adult;



1 the court may suspend only that part of a sentence that is in excess
 2 of the minimum sentence for the Level 2 or Level 3 felony.

3 (e) The court may suspend only that part of a sentence for
 4 murder or a Level 1 felony conviction that is in excess of the
 5 minimum sentence for murder or the Level 1 felony conviction.

6 ~~(b)~~ (f) Notwithstanding ~~subsection (a)~~, subsections (b) through (e),
 7 the court may suspend any part of the sentence for a felony if it finds
 8 that:

- 9 (1) the crime was the result of circumstances unlikely to recur;
 10 (2) the victim of the crime induced or facilitated the offense;
 11 (3) there are substantial grounds tending to excuse or justify the
 12 crime, though failing to establish a defense; or
 13 (4) the acts in the juvenile record would not be Class A, Class B,
 14 Level 1, Level 2, Level 3, or Level 4 felonies if committed by an
 15 adult, and the convicted person is to undergo home detention
 16 under IC 35-38-1-21 instead of the minimum sentence specified
 17 for the crime under this chapter.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 292, 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 292 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 6, Nays 2

SENATE MOTION

Madam President: I move that Senate Bill 292 be amended to read as follows:

Page 9, line 6, delete "and" and insert "**or**".

Page 9, reset in roman lines 7 through 9.

(Reference is to SB 292 as printed January 31, 2018.)

FREEMAN

