

# HOUSE BILL No. 1393

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-48-4.

**Synopsis:** Drug offenses. Removes, adds, or amends certain elements from offenses involving dealing in cocaine or a narcotic drug, dealing in methamphetamine, manufacturing methamphetamine, and dealing in a schedule I, II, or III controlled substance. Increases the penalties in the offense of dealing in a schedule I, II, or III controlled substance.

**Effective:** July 1, 2019.

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## McNamara

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January 14, 2019, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1393

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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 35-48-4-1, AS AMENDED BY P.L.252-2017,  
2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 1. (a) A person who:  
4 (1) knowingly or intentionally:  
5 (A) manufactures;  
6 (B) finances the manufacture of;  
7 (C) delivers; or  
8 (D) finances the delivery of;  
9 cocaine or a narcotic drug, pure or adulterated, classified in  
10 schedule I or II; or  
11 (2) possesses, with intent to:  
12 (A) manufacture;  
13 (B) finance the manufacture of;  
14 (C) deliver; or  
15 (D) finance the delivery of;  
16 cocaine or a narcotic drug, pure or adulterated, classified in  
17 schedule I or II;



1 commits dealing in cocaine or a narcotic drug, a Level 5 felony, except  
2 as provided in subsections (b) through (e).

3 (b) A person may be convicted of an offense under subsection (a)(2)  
4 only if:

5 (1) there is evidence in addition to the weight of the drug that the  
6 person intended to manufacture, finance the manufacture of,  
7 deliver, or finance the delivery of the drug; or

8 (2) the amount of the drug involved is at least twenty-eight (28)  
9 grams.

10 (c) The offense is a Level 4 felony if:

11 (1) the amount of the drug involved is at least one (1) gram but  
12 less than five (5) grams; **or**

13 (2) the amount of the drug involved is less than one (1) gram and  
14 an enhancing circumstance applies. **or**

15 ~~(3) the drug is heroin and the amount of heroin involved;~~  
16 ~~aggregated over a period of not more than ninety (90) days; is at~~  
17 ~~least three (3) grams but less than seven (7) grams.~~

18 (d) The offense is a Level 3 felony if:

19 (1) the amount of the drug involved is at least five (5) grams; **but**  
20 **less than ten (10) grams; or**

21 (2) the amount of the drug involved is at least one (1) gram but  
22 less than five (5) grams and an enhancing circumstance applies.

23 ~~(3) the drug is heroin and the amount of heroin involved;~~  
24 ~~aggregated over a period of not more than ninety (90) days; is at~~  
25 ~~least seven (7) grams but less than twelve (12) grams; or~~

26 ~~(4) the drug is heroin and:~~

27 ~~(A) the amount of heroin involved, aggregated over a period~~  
28 ~~of not more than ninety (90) days; is at least three (3) grams~~  
29 ~~but less than seven (7) grams; and~~

30 ~~(B) an enhancing circumstance applies.~~

31 (e) The offense is a Level 2 felony if

32 ~~(1) the amount of the drug involved is at least ten (10) grams;~~

33 ~~(2) the amount of the drug involved is at least five (5) grams but~~  
34 ~~less than ten (10) grams and an enhancing circumstance applies.~~

35 ~~(3) the drug is heroin and the amount of heroin involved;~~  
36 ~~aggregated over a period of not more than ninety (90) days; is at~~  
37 ~~least twelve (12) grams; or~~

38 ~~(4) the drug is heroin and:~~

39 ~~(A) the amount of heroin involved, aggregated over a period~~  
40 ~~of not more than ninety (90) days; is at least seven (7) grams~~  
41 ~~but less than twelve (12) grams; and~~

42 ~~(B) an enhancing circumstance applies.~~



1 SECTION 2. IC 35-48-4-1.1, AS AMENDED BY P.L.252-2017,  
 2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2019]: Sec. 1.1. (a) A person who:

4 (1) knowingly or intentionally:

5 (A) delivers; or

6 (B) finances the delivery of;  
 7 methamphetamine, pure or adulterated; or

8 (2) possesses, with intent to:

9 (A) deliver; or

10 (B) finance the delivery of;  
 11 methamphetamine, pure or adulterated;

12 commits dealing in methamphetamine, a Level 5 felony, except as  
 13 provided in subsections (b) through (e).

14 (b) A person may be convicted of an offense under subsection (a)(2)  
 15 only if:

16 (1) there is evidence in addition to the weight of the drug that the  
 17 person intended to deliver or finance the delivery of the drug; or

18 (2) the amount of the drug involved is at least twenty-eight (28)  
 19 grams.

20 (c) The offense is a Level 4 felony if:

21 (1) the amount of the drug involved is at least one (1) gram but  
 22 less than five (5) grams; or

23 (2) the amount of the drug involved is less than one (1) gram and  
 24 an enhancing circumstance applies.

25 (d) The offense is a Level 3 felony if:

26 (1) the amount of the drug involved is at least five (5) grams; ~~but~~  
 27 ~~less than ten (10) grams;~~ or

28 (2) the amount of the drug involved is at least one (1) gram but  
 29 less than five (5) grams and an enhancing circumstance applies.

30 (e) The offense is a Level 2 felony if

31 ~~(1) the amount of the drug involved is at least ten (10) five (5)~~  
 32 ~~grams and an enhancing circumstance applies. or~~

33 ~~(2) the amount of the drug involved is at least five (5) grams but~~  
 34 ~~less than ten (10) grams and an enhancing circumstance applies.~~

35 SECTION 3. IC 35-48-4-1.2, AS ADDED BY P.L.252-2017,  
 36 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2019]: Sec. 1.2. (a) A person who knowingly or intentionally

38 manufactures or finances the manufacture of methamphetamine, pure  
 39 or adulterated, commits manufacturing methamphetamine, a Level 4  
 40 felony, except as provided in subsections (b) and (c).

41 (b) The offense is a Level 3 felony if:

42 (1) the amount of the drug involved is at least five (5) grams; ~~but~~



- 1           less than ten (~~10~~) grams; or  
 2           (2) the amount of the drug involved is at least one (~~1~~) gram but  
 3           less than five (5) grams and an enhancing circumstance applies.  
 4       (c) The offense is a Level 2 felony if:  
 5           ~~(1) the amount of the drug involved is at least ten (10) grams;~~  
 6           ~~(2) (1) the amount of the drug involved is at least five (5) grams~~  
 7           ~~but less than ten (10) grams~~ and an enhancing circumstance  
 8           applies;  
 9           ~~(3) (2) the manufacture of the drug results in serious bodily injury~~  
 10          to a person other than the manufacturer; or  
 11          ~~(4) (3) the manufacture of the drug results in the death of a person~~  
 12          other than the manufacturer.  
 13       SECTION 4. IC 35-48-4-2, AS AMENDED BY P.L.44-2016,  
 14       SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15       JULY 1, 2019]: Sec. 2. (a) A person who:  
 16           (1) knowingly or intentionally:  
 17               (A) manufactures;  
 18               (B) finances the manufacture of;  
 19               (C) delivers; or  
 20               (D) finances the delivery of;  
 21           a controlled substance, pure or adulterated, classified in schedule  
 22           I, II, or III, except marijuana, hash oil, hashish, salvia, or a  
 23           synthetic drug; or  
 24           (2) possesses, with intent to:  
 25               (A) manufacture;  
 26               (B) finance the manufacture of;  
 27               (C) deliver; or  
 28               (D) finance the delivery of;  
 29           a controlled substance, pure or adulterated, classified in schedule  
 30           I, II, or III, except marijuana, hash oil, hashish, salvia, or a  
 31           synthetic drug;  
 32       commits dealing in a schedule I, II, or III controlled substance, a Level  
 33       6 5 felony, except as provided in subsections (b) through (f).  
 34       (b) A person may be convicted of an offense under subsection (a)(2)  
 35       only if:  
 36           (1) there is evidence in addition to the weight of the drug that the  
 37           person intended to manufacture, finance the manufacture of,  
 38           deliver, or finance the delivery of the drug; or  
 39           (2) the amount of the drug involved is at least twenty-eight (28)  
 40           grams.  
 41       (c) The offense is a Level 5 4 felony if:  
 42           (1) the amount of the drug involved is at least one (1) gram but



- 1 less than five (5) grams; or  
 2 (2) the amount of the drug involved is less than one (1) gram and  
 3 an enhancing circumstance applies.  
 4 (d) The offense is a Level ~~4~~ **3** felony if:  
 5 (1) the amount of the drug involved is at least five (5) grams; ~~but~~  
 6 ~~less than ten (10) grams~~; or  
 7 (2) the amount of the drug involved is at least one (1) gram but  
 8 less than five (5) grams and an enhancing circumstance applies.  
 9 (e) The offense is a Level ~~3~~ **2** felony if  
 10 ~~(1) the amount of the drug involved is at least ten (10) grams but~~  
 11 ~~less than twenty-eight (28) grams~~; or  
 12 ~~(2) the amount of the drug involved is at least five (5) grams but~~  
 13 ~~less than ten (10) grams and an enhancing circumstance applies.~~  
 14 ~~(f) The offense is a Level 2 felony if:~~  
 15 ~~(1) the amount of the drug involved is at least twenty-eight (28)~~  
 16 ~~grams; or~~  
 17 ~~(2) the amount of the drug involved is at least ten (10) grams but~~  
 18 ~~less than twenty-eight (28) grams and an enhancing circumstance~~  
 19 ~~applies.~~  
 20 SECTION 5. IC 35-48-4-6, AS AMENDED BY P.L.168-2014,  
 21 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2019]: Sec. 6. (a) A person who, without a valid prescription  
 23 or order of a practitioner acting in the course of the practitioner's  
 24 professional practice, knowingly or intentionally possesses cocaine  
 25 (pure or adulterated) or a narcotic drug (pure or adulterated) classified  
 26 in schedule I or II, commits possession of cocaine or a narcotic drug,  
 27 a Level 6 felony, except as provided in subsections (b) through (d).  
 28 (b) The offense is a Level 5 felony if:  
 29 (1) the amount of the drug involved is at least **one (1) but less**  
 30 **than** five (5) ~~but less than ten (10)~~ grams; or  
 31 (2) the amount of the drug involved is less than ~~five (5)~~ **one (1)**  
 32 **grams gram** and an enhancing circumstance applies.  
 33 (c) The offense is a Level 4 felony if:  
 34 (1) the amount of the drug involved is at least ~~ten (10)~~ **one (1)**  
 35 **gram** but less than ~~twenty-eight (28)~~ **five (5)** grams **and an**  
 36 **enhancing circumstance applies**; or  
 37 (2) the amount of the drug involved is at least five (5) but less  
 38 than ~~ten (10)~~ **twenty-eight (28)** grams. **and an enhancing**  
 39 **circumstance applies.**  
 40 (d) The offense is a Level 3 felony if:  
 41 (1) the amount of the drug involved is at least twenty-eight (28)  
 42 grams; or



- 1           (2) the amount of the drug involved is at least ~~ten (10)~~ **five (5)** but  
 2           ~~less than twenty-eight (28)~~ grams and an enhancing circumstance  
 3           applies.
- 4           SECTION 6. IC 35-48-4-6.1, AS AMENDED BY P.L.226-2014(ts),  
 5           SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6           JULY 1, 2019]: Sec. 6.1. (a) A person who, without a valid prescription  
 7           or order of a practitioner acting in the course of the practitioner's  
 8           professional practice, knowingly or intentionally possesses  
 9           methamphetamine (pure or adulterated) commits possession of  
 10          methamphetamine, a Level 6 felony, except as provided in subsections  
 11          (b) through (d).
- 12          (b) The offense is a Level 5 felony if:
- 13            (1) the amount of the drug involved is at least ~~five (5)~~ **one (1)** but  
 14            less than ~~ten (10)~~ **five (5)** grams; or
- 15            (2) the amount of the drug involved is less than ~~five (5)~~ **one (1)**  
 16            ~~grams~~ **gram** and an enhancing circumstance applies.
- 17          (c) The offense is a Level 4 felony if
- 18            (1) the amount of the drug involved is at least ~~ten (10)~~ **one (1)** but  
 19            less than ~~twenty-eight (28)~~ **five (5)** grams **and an enhancing**  
 20            **circumstance applies. or**
- 21            (2) ~~the amount of the drug involved is at least five (5) but less~~  
 22            ~~than ten (10) grams and an enhancing circumstance applies.~~
- 23          (d) The offense is a Level 3 felony if:
- 24            (1) the amount of the drug involved is at least twenty-eight (28)  
 25            grams; or
- 26            (2) the amount of the drug involved is at least ~~ten (10)~~ **five (5)** but  
 27            ~~less than twenty-eight (28)~~ grams and an enhancing circumstance  
 28            applies.

