

HOUSE BILL No. 1402

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-48.

Synopsis: Drug crime enhancements. Creates the crime of dealing in a controlled substance by a health care provider. Precludes certain defenses. Lists dealing in a schedule I, II, or III controlled substance as an enhancing circumstance for purposes of sentencing. Lists dealing in a controlled substance by a health care provider as an enhancing circumstance for purposes of sentencing.

Effective: July 1, 2015.

Washburne

January 14, 2015, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1402



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 35-48-1-16.5, AS AMENDED BY P.L.168-2014,
- 2 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2015]: Sec. 16.5. "Enhancing circumstance" means one (1) or
- 4 more of the following:
- 5 (1) The person has a prior conviction, in any jurisdiction, for
- 6 dealing in a controlled substance that is not marijuana, hashish,
- 7 hash oil, salvia divinorum, or a synthetic drug, including an
- 8 attempt or conspiracy to commit the offense.
- 9 (2) The person committed the offense while in possession of a
- 10 firearm.
- 11 (3) The person committed the offense:
- 12 (A) on a school bus; or
- 13 (B) in, on, or within five hundred (500) feet of:
- 14 (i) school property while a person under eighteen (18) years
- 15 of age was reasonably expected to be present; or



- 1 (ii) a public park while a person under eighteen (18) years
 2 of age was reasonably expected to be present.
- 3 (4) The person delivered or financed the delivery of the drug to a
 4 person under eighteen (18) years of age at least three (3) years
 5 junior to the person.
- 6 (5) The person manufactured or financed the manufacture of the
 7 drug.
- 8 (6) The person committed the offense in the physical presence of
 9 a child less than eighteen (18) years of age, knowing that the child
 10 was present and might be able to see or hear the offense.
- 11 **(7) The person committed the offense of:**
- 12 **(A) dealing in a schedule I, II, or III controlled substance;**
 13 **or**
 14 **(B) dealing in a controlled substance by a health care**
 15 **provider;**
 16 **and the offense is the proximate cause of another person's**
 17 **death.**
- 18 SECTION 2. IC 35-48-4-1.5 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2015]: **Sec. 1.5. (a) A health care provider, as defined by**
 21 **IC 16-18-2-163(c), who knowingly or intentionally prescribes,**
 22 **administers, or provides a schedule I, II, III, IV, or V controlled**
 23 **substance:**
- 24 **(1) without a legitimate medical purpose; or**
 25 **(2) outside the scope of medical practice;**
 26 **commits dealing in a controlled substance by a health care**
 27 **provider, a Level 4 felony.**
- 28 **(b) The following are not defenses to a prosecution under**
 29 **subsection (a) that involves proof of the existence of an enhancing**
 30 **circumstance described in IC 35-48-1-16.5(7):**
- 31 **(1) The decedent consumed additional controlled substances**
 32 **which, if taken alone, would not have caused the decedent's**
 33 **death.**
- 34 **(2) The decedent contributed to the decedent's death by the**
 35 **knowing, intentional, reckless, or negligent:**
- 36 **(A) injection of a controlled substance;**
 37 **(B) inhalation of a controlled substance; or**
 38 **(C) consent to the administration of a controlled substance**
 39 **by another person.**

