

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1418

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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 35-31.5-2-105.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 105.5. "Drug crime", for purposes of IC 35-33-7-5, means one (1) or more of the following offenses:**

- (1) **Dealing in cocaine or a narcotic drug (IC 35-48-4-1).**
- (2) **Dealing in methamphetamine (IC 35-48-4-1.1).**
- (3) **Manufacturing methamphetamine (IC 35-48-4-1.2).**
- (4) **Dealing in a controlled substance by a practitioner (IC 35-48-4-1.5).**
- (5) **Dealing in a schedule I, II, or III controlled substance or controlled substance analog (IC 35-48-4-2).**
- (6) **Dealing in a schedule IV controlled substance or controlled substance analog (IC 35-48-4-3).**
- (7) **Dealing in a schedule V controlled substance or controlled substance analog (IC 35-48-4-4).**
- (8) **Dumping controlled substance waste (IC 35-48-4-4.1).**
- (9) **Possession of cocaine or a narcotic drug (IC 35-48-4-6).**
- (10) **Possession of methamphetamine (IC 35-48-4-6.1).**
- (11) **Possession of a controlled substance or controlled substance analog; obtaining a schedule V controlled substance**

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**(IC 35-48-4-7).**

**(12) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).**

**(13) Dealing in smokable hemp (IC 35-48-4-10.1).**

**(14) Possession of marijuana, hash oil, hashish, or salvia (IC 35-48-4-11).**

SECTION 2. IC 35-33-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) When a person is arrested for a crime before a formal charge has been filed, an information or indictment shall be filed or be prepared to be filed at or before the initial hearing, unless the prosecuting attorney has informed the court that there will be no charges filed in the case.

(b) If the prosecuting attorney states that more time is required to evaluate the case and determine whether a charge should be filed, or if it is necessary to transfer the person to another court, then the court shall recess or continue the initial hearing for up to seventy-two (72) hours, excluding intervening Saturdays, Sundays, and legal holidays.

(c) Before recessing the initial hearing and after the ex parte probable cause determination has been made, the court shall inform a defendant charged with a felony of the rights specified in ~~subdivisions (1), (2), (3), (4), and (5) of section 5~~ **section 5(a)(1), 5(a)(2), 5(a)(3), 5(a)(4), and 5(a)(5)** of this chapter.

SECTION 3. IC 35-33-7-5, AS AMENDED BY P.L.46-2018, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5. **(a)** At the initial hearing of a person, the judicial officer shall inform the person orally or in writing:

(1) that the person has a right to retain counsel and if the person intends to retain counsel the person must do so within:

(A) twenty (20) days if the person is charged with a felony; or

(B) ten (10) days if the person is charged only with one (1) or more misdemeanors;

after this initial hearing because there are deadlines for filing motions and raising defenses, and if those deadlines are missed, the legal issues and defenses that could have been raised will be waived;

(2) that the person has a right to assigned counsel at no expense to the person if the person is indigent;

(3) that the person has a right to a speedy trial;

(4) of the amount and conditions of bail;

(5) of the person's privilege against self-incrimination;

(6) of the nature of the charge against the person;

(7) that a preliminary plea of not guilty is being entered for the



person and the preliminary plea of not guilty will become a formal plea of not guilty:

(A) twenty (20) days after the completion of the initial hearing; or

(B) ten (10) days after the completion of the initial hearing if the person is charged only with one (1) or more misdemeanors;

unless the defendant enters a different plea; and

(8) that the person may request to petition for a specialized driving privileges hearing if the person is charged with:

(A) any offense in which the operation of a motor vehicle is an element of the offense;

(B) any offense under IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal); or

(C) any offense under IC 35-42-1, IC 35-42-2, or IC 35-44.1-3-1 that involves the use of a vehicle.

In addition, the judge shall direct the prosecuting attorney to give the defendant or the defendant's attorney a copy of any formal felony charges filed or ready to be filed. The judge shall, upon request of the defendant, direct the prosecuting attorney to give the defendant or the defendant's attorney a copy of any formal misdemeanor charges filed or ready to be filed.

**(b) This subsection applies to a pregnant woman charged with a drug crime. If the woman is otherwise qualified, including meeting any requirements under IC 33-23-16-13(3)(A), if applicable, the judge may, after consulting with the prosecuting attorney, refer the woman to the forensic diversion program (IC 11-12-3.7) or a drug court (IC 33-23-16).**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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