

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 142

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 9-30-5-5, AS AMENDED BY P.L.158-2013, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) A person who causes the death of another person when operating a vehicle:

- (1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or
 - (B) two hundred ten (210) liters of the person's breath;
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or
- (3) while intoxicated;

commits a Level 5 felony. However, the offense is a Level 4 felony if the person has a previous conviction of operating while intoxicated within the ~~five (5)~~ **ten (10)** years preceding the commission of the offense, or if the person operated the vehicle when the person knew that the person's driver's license, driving privilege, or permit is suspended or revoked for a previous conviction for operating a vehicle while intoxicated.

(b) A person at least twenty-one (21) years of age who causes the death of another person when operating a vehicle:

- (1) with an alcohol concentration equivalent to at least

SEA 142 — Concur



fifteen-hundredths (0.15) gram of alcohol per:

- (A) one hundred (100) milliliters of the person's blood; or
- (B) two hundred ten (210) liters of the person's breath; or
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood;

commits a Level 4 felony.

(c) A person who causes the death of a law enforcement animal (as defined in IC 35-46-3-4.5) when operating a vehicle:

- (1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or
 - (B) two hundred ten (210) liters of the person's breath; or
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood;

commits a Level 6 felony.

(d) A person who violates subsection (a), (b), or (c) commits a separate offense for each person or law enforcement animal whose death is caused by the violation of subsection (a), (b), or (c).

(e) It is a defense under subsection (a)(2), (b)(2), or (c)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 2. IC 35-38-3-3, AS AMENDED BY P.L.179-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) Except as provided by subsection (b), a person convicted of a misdemeanor may not be committed to the department of correction.

(b) Upon a request from the sheriff, the commissioner may agree to accept custody of a misdemeanorant:

- (1) if placement in the county jail:
 - (A) places the inmate in danger of serious bodily injury or death; or
 - (B) represents a substantial threat to the safety of others;
- (2) for other good cause shown; or
- (3) if a person has more than five hundred forty-seven (547) days remaining before the person's earliest release date as a result of:
 - (A) consecutive misdemeanor sentences; or
 - (B) a sentencing enhancement applied to a misdemeanor sentence.

(c) After June 30, 2014, and before January 1, 2016, a court may not commit a person convicted of a Level 6 felony to the department of correction if the person's earliest possible release date is less than



ninety-one (91) days from the date of sentencing, unless the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new criminal offense.

(d) After December 31, 2015, a court may not commit a person convicted of a Level 6 felony to the department of correction, unless:

(1) the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new criminal offense; or

(2) the person: ~~is convicted of:~~

(A) ~~is convicted of~~ at least two (2) Level 6 felonies that are ordered to be served consecutively; ~~or~~

(B) ~~is convicted of~~ a Level 6 felony that is enhanced by an additional fixed term under IC 35-50-2-8 through IC 35-50-2-16; or

(C) has received an enhanced sentence under IC 9-30-15.5-2;

and the person's earliest possible release date is more than three hundred sixty-five (365) days after the date of sentencing.

A person who may not be committed to the department of correction may be placed on probation, committed to the county jail, or placed in community corrections for assignment to an appropriate community corrections program.

(e) After June 30, 2014, and before January 1, 2016, a sheriff is entitled to a per diem and medical expense reimbursement as described in P.L.205-2013, SECTION 4 for the cost of incarcerating a person described in subsections (c) and (d) in a county jail. The sheriff is entitled to a per diem and medical expense reimbursement only for the time that the person described in subsections (c) and (d) is incarcerated in the county jail. The reimbursement:

(1) shall be reviewed by the budget committee; and

(2) is subject to approval by the budget agency.

(f) Subject to appropriation from the general assembly, a sheriff is entitled to a per diem and medical expense reimbursement from the department of correction for the cost of incarcerating a person described in subsections (c) and (d) in a county jail. The sheriff is entitled to a per diem and medical expense reimbursement only for the time that the person described in subsections (c) and (d) is incarcerated in the county jail.

SECTION 3. IC 35-46-9-6, AS AMENDED BY P.L.168-2014, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) Except as provided in subsections (b) and

SEA 142 — Concur



- (c), a person who operates a motorboat while:
- (1) having an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least eight-hundredths (0.08) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or
 - (B) two hundred ten (210) liters of the person's breath;
 - (2) having a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or
 - (3) intoxicated;
- commits a Class C misdemeanor.
- (b) The offense is a Level 6 felony if:
- (1) the person has a previous conviction under:
 - (A) IC 14-1-5 (repealed);
 - (B) IC 14-15-8-8 (repealed); or**
 - ~~(B)~~ **(C)** this chapter; **or**
 - (2) the offense results in serious bodily injury to another person.
- (c) The offense is a Level 5 felony if the offense results in the death of another person.
- (d) It is a defense to a prosecution under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1-24) who acted in the course of the practitioner's professional practice.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 142 — Concur

