

SENATE BILL No. 159

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-42-19-18; IC 35-31.5-2-239.5; IC 35-48-4.5.

Synopsis: Defenses relating to controlled substance offenses. Provides a defense to prosecution of certain offenses relating to controlled substances if: (1) before a law enforcement officer performs a search of the person or the person's property, the person informs the law enforcement officer that the person is in possession of a hypodermic syringe or needle; and (2) there is no more than a residual amount of a controlled substance located in the hypodermic syringe or needle.

Effective: July 1, 2019.

Merritt

January 3, 2019, read first time and referred to Committee on Corrections and Criminal Law.



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.

SENATE BILL No. 159

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 16-42-19-18, AS AMENDED BY P.L.187-2015,
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 18. (a) A person may not possess with intent to:
4 (1) violate this chapter; or
5 (2) commit an offense described in IC 35-48-4;
6 a hypodermic syringe or needle or an instrument adapted for the use of
7 a controlled substance or legend drug by injection in a human being.
8 (b) A person who violates subsection (a) commits a Level 6 felony.
9 (c) **It is a defense to prosecution under this section that, before**
10 **a law enforcement officer performs a search of the person or the**
11 **person's property, the person informs the law enforcement officer**
12 **that the person is in possession of a hypodermic syringe or needle**
13 **or an instrument adapted for the use of a controlled substance or**
14 **legend drug by injection in a human being.**
15 SECTION 2. IC 35-31.5-2-239.5 IS ADDED TO THE INDIANA
16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2019]: **Sec. 239.5. "Possession offense", for**



1 purposes of IC 35-48-4.5, has the meaning set forth in
 2 IC 35-48-4.5-1.

3 SECTION 3. IC 35-48-4.5 IS ADDED TO THE INDIANA CODE
 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2019]:

6 **Chapter 4.5. Defenses Relating to Controlled Substances**

7 **Sec. 1. The following definitions apply throughout this chapter:**

8 (1) "Hypodermic syringe or needle" means:

9 (A) a hypodermic syringe;

10 (B) a hypodermic needle; or

11 (C) an instrument adapted for the use of a controlled
 12 substance or legend drug by injection in a human being.

13 (2) "Possession offense" means:

14 (A) possession of cocaine or a narcotic drug (IC 35-48-4-6);

15 (B) possession of methamphetamine (IC 35-48-4-6.1); or

16 (C) possession of a controlled substance (IC 35-48-4-7).

17 **Sec. 2. It is a defense to a prosecution under IC 35-48-4-8.3**
 18 **(possession of paraphernalia) or a possession offense described in**
 19 **IC 35-48-4 that:**

20 (1) before a law enforcement officer performs a search of the
 21 person or the person's property, the person informs the law
 22 enforcement officer that the person is in possession of a
 23 hypodermic syringe or needle; and

24 (2) there is no more than a residual amount of a controlled
 25 substance located in the hypodermic syringe or needle.

26 **Sec. 3. This chapter applies only to the possession of a**
 27 **hypodermic syringe or needle.**

