

# HOUSE BILL No. 1189

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-30-5-5; IC 35-31.5-2-184; IC 35-38-1-7.1; IC 35-46-3-11.

**Synopsis:** Killing of a law enforcement animal. Increases the penalty for killing a law enforcement animal to a Level 5 felony. Adds killing a law enforcement animal in the commission of a crime as an aggravating circumstance for sentencing in criminal cases.

**Effective:** July 1, 2021.

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January 7, 2021, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## HOUSE BILL No. 1189

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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 9-30-5-5, AS AMENDED BY P.L.184-2019,  
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 5. (a) A person who causes the death or  
4 catastrophic injury of another person when operating a vehicle:  
5 (1) with an alcohol concentration equivalent to at least  
6 eight-hundredths (0.08) gram of alcohol per:  
7 (A) one hundred (100) milliliters of the person's blood; or  
8 (B) two hundred ten (210) liters of the person's breath;  
9 (2) with a controlled substance listed in schedule I or II of  
10 IC 35-48-2 or its metabolite in the person's blood; or  
11 (3) while intoxicated;  
12 commits a Level 4 felony.  
13 (b) A person who causes the death of a law enforcement animal (as  
14 defined in IC 35-46-3-4.5) when operating a vehicle:  
15 (1) with an alcohol concentration equivalent to at least  
16 eight-hundredths (0.08) gram of alcohol per:  
17 (A) one hundred (100) milliliters of the person's blood; or



1 (B) two hundred ten (210) liters of the person's breath; or  
 2 (2) with a controlled substance listed in schedule I or II of  
 3 IC 35-48-2 or its metabolite in the person's blood;  
 4 commits a ~~Level 6 felony~~. **Level 5 felony.**

5 (c) A person who commits an offense under subsection (a) or (b)  
 6 commits a separate offense for each person or law enforcement animal  
 7 whose death (or catastrophic injury, in the case of a person) is caused  
 8 by the violation of subsection (a) or (b).

9 (d) It is a defense under subsection (a) or (b) that the person accused  
 10 of causing the death or catastrophic injury of another person or the  
 11 death of a law enforcement animal when operating a vehicle with a  
 12 controlled substance listed in schedule I or II of IC 35-48-2 or its  
 13 metabolite in the person's blood consumed the controlled substance in  
 14 accordance with a valid prescription or order of a practitioner (as  
 15 defined in IC 35-48-1) who acted in the course of the practitioner's  
 16 professional practice.

17 SECTION 2. IC 35-31.5-2-184, AS ADDED BY P.L.114-2012,  
 18 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2021]: Sec. 184. "Law enforcement animal", for purposes of  
 20 ~~IC 35-46-3~~, **IC 35**, has the meaning set forth in IC 35-46-3-4.5.

21 SECTION 3. IC 35-38-1-7.1, AS AMENDED BY P.L.5-2019,  
 22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2021]: Sec. 7.1. (a) In determining what sentence to impose  
 24 for a crime, the court may consider the following aggravating  
 25 circumstances:

26 (1) The harm, injury, loss, or damage suffered by the victim of an  
 27 offense was:

28 (A) significant; and

29 (B) greater than the elements necessary to prove the  
 30 commission of the offense.

31 (2) The person has a history of criminal or delinquent behavior.

32 (3) The victim of the offense was less than twelve (12) years of  
 33 age or at least sixty-five (65) years of age at the time the person  
 34 committed the offense.

35 (4) The person:

36 (A) committed a crime of violence (IC 35-50-1-2); and

37 (B) knowingly committed the offense in the presence or within  
 38 hearing of an individual who:

39 (i) was less than eighteen (18) years of age at the time the  
 40 person committed the offense; and

41 (ii) is not the victim of the offense.

42 (5) The person violated a protective order issued against the



1 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or  
 2 IC 34-4-5.1 before their repeal), a workplace violence restraining  
 3 order issued against the person under IC 34-26-6, or a no contact  
 4 order issued against the person.

5 (6) The person has recently violated the conditions of any  
 6 probation, parole, pardon, community corrections placement, or  
 7 pretrial release granted to the person.

8 (7) The victim of the offense was:

9 (A) a person with a disability (as defined in IC 27-7-6-12), and  
 10 the defendant knew or should have known that the victim was  
 11 a person with a disability; or

12 (B) mentally or physically infirm.

13 (8) The person was in a position having care, custody, or control  
 14 of the victim of the offense.

15 (9) The injury to or death of the victim of the offense was the  
 16 result of shaken baby syndrome (as defined in IC 16-41-40-2).

17 (10) The person threatened to harm the victim of the offense or a  
 18 witness if the victim or witness told anyone about the offense.

19 (11) The person:

20 (A) committed trafficking with an inmate under  
 21 IC 35-44.1-3-5; and

22 (B) is an employee of the penal facility.

23 (12) The person committed the offense with bias due to the  
 24 victim's or the group's real or perceived characteristic, trait, belief,  
 25 practice, association, or other attribute the court chooses to  
 26 consider, including but not limited to an attribute described in  
 27 IC 10-13-3-1.

28 **(13) The offense resulted in the death of a law enforcement  
 29 animal (as defined in IC 35-46-3-4.5).**

30 (b) The court may consider the following factors as mitigating  
 31 circumstances or as favoring suspending the sentence and imposing  
 32 probation:

33 (1) The crime neither caused nor threatened serious harm to  
 34 persons or property, or the person did not contemplate that it  
 35 would do so.

36 (2) The crime was the result of circumstances unlikely to recur.

37 (3) The victim of the crime induced or facilitated the offense.

38 (4) There are substantial grounds tending to excuse or justify the  
 39 crime, though failing to establish a defense.

40 (5) The person acted under strong provocation.

41 (6) The person has no history of delinquency or criminal activity,  
 42 or the person has led a law-abiding life for a substantial period



- 1 before commission of the crime.
- 2 (7) The person is likely to respond affirmatively to probation or
- 3 short term imprisonment.
- 4 (8) The character and attitudes of the person indicate that the
- 5 person is unlikely to commit another crime.
- 6 (9) The person has made or will make restitution to the victim of
- 7 the crime for the injury, damage, or loss sustained.
- 8 (10) Imprisonment of the person will result in undue hardship to
- 9 the person or the dependents of the person.
- 10 (11) The person was convicted of a crime involving the use of
- 11 force against a person who had repeatedly inflicted physical or
- 12 sexual abuse upon the convicted person and evidence shows that
- 13 the convicted person suffered from the effects of battery as a
- 14 result of the past course of conduct of the individual who is the
- 15 victim of the crime for which the person was convicted.
- 16 (12) The person was convicted of a crime relating to a controlled
- 17 substance and the person's arrest or prosecution was facilitated in
- 18 part because the person:
- 19 (A) requested emergency medical assistance; or
- 20 (B) acted in concert with another person who requested
- 21 emergency medical assistance;
- 22 for an individual who reasonably appeared to be in need of
- 23 medical assistance due to the use of alcohol or a controlled
- 24 substance.
- 25 (13) The person has posttraumatic stress disorder, traumatic brain
- 26 injury, or a postconcussive brain injury.
- 27 (c) The criteria listed in subsections (a) and (b) do not limit the
- 28 matters that the court may consider in determining the sentence.
- 29 (d) A court may impose any sentence that is:
- 30 (1) authorized by statute; and
- 31 (2) permissible under the Constitution of the State of Indiana;
- 32 regardless of the presence or absence of aggravating circumstances or
- 33 mitigating circumstances.
- 34 (e) If a court suspends a sentence and orders probation for a person
- 35 described in subsection (b)(13), the court may require the person to
- 36 receive treatment for the person's injuries.
- 37 SECTION 4. IC 35-46-3-11, AS AMENDED BY P.L.168-2014,
- 38 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 39 JULY 1, 2021]: Sec. 11. (a) A person who knowingly or intentionally:
- 40 (1) strikes, torments, injures, or otherwise mistreats a law
- 41 enforcement animal; or
- 42 (2) interferes with the actions of a law enforcement animal while



- 1           the animal is engaged in assisting a law enforcement officer in the  
 2           performance of the officer's duties;  
 3           commits a Class A misdemeanor.
- 4           (b) An offense under subsection (a)(1) is a Level 6 felony if the act  
 5           results in:  
 6           (1) serious permanent disfigurement;  
 7           (2) unconsciousness; **or**  
 8           (3) permanent or protracted loss or impairment of the function of  
 9           a bodily member or organ; **or**  
 10          ~~(4) death;~~  
 11          of the law enforcement animal.
- 12          **(c) An offense under subsection (a)(1) is a Level 5 felony if the**  
 13          **act results in the death of the law enforcement animal.**
- 14          ~~(c)~~ **(d)** It is a defense that the accused person:  
 15          (1) engaged in a reasonable act of training, handling, or  
 16          discipline; and  
 17          (2) acted as an employee or agent of a law enforcement agency.
- 18          ~~(d)~~ **(e)** In addition to any sentence or fine imposed for a conviction  
 19          of an offense under this section, the court:  
 20          (1) may order the person convicted to make restitution to the  
 21          person or law enforcement agency owning the animal for  
 22          reimbursement of veterinary bills; and  
 23          (2) shall order the person convicted to make restitution to the  
 24          person or law enforcement agency owning the animal for  
 25          reimbursement of the cost of replacing the animal, which may  
 26          include the cost of training the animal, if the animal is  
 27          permanently disabled or killed.

