

# SENATE BILL No. 259

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-25; IC 9-30; IC 34-28-5-15; IC 35-44.1-3-1.

**Synopsis:** Motor vehicle matters. Prohibits the bureau of motor vehicles (bureau) from suspending the driving privileges of a person who provides proof of financial responsibility but did not own the motor vehicle that the person was operating at the time of the accident or violation. Repeals the law allowing the bureau to suspend a person's driving privileges for certain offenses. Specifies conditions for suspension of driving privileges for convictions of certain offenses in other states. Provides that a person arrested or charged on probable cause of operating a vehicle while intoxicated is not required to provide proof of future financial responsibility until the person is convicted of operating a vehicle while intoxicated. Specifies that a person must petition for specialized driving privileges in each court that has ordered the suspension of the person's driving privileges. Requires the bureau to withhold disclosure of a moving traffic violation if the action is dismissed, the person is acquitted, or the action is vacated. Provides that this requirement does not apply to a moving traffic violation of an individual who holds a commercial driver's license.

**Effective:** July 1, 2018.

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## Head

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January 3, 2018, read first time and referred to Committee on Judiciary.

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Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# SENATE BILL No. 259



A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 9-25-6-3, AS AMENDED BY P.L.120-2017,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 3. (a) If the bureau:  
4 (1) does not receive a certificate of compliance during the  
5 applicable compliance response period for a person identified  
6 under IC 9-25-5-2; or  
7 (2) receives a certificate that does not indicate that financial  
8 responsibility was in effect with respect to the motor vehicle  
9 operated by the person or operation of the motor vehicle by the  
10 person on the date of the accident referred to in IC 9-25-5-2;  
11 the bureau shall take action under subsection (d).  
12 (b) If the bureau:  
13 (1) does not receive a certificate of compliance during the  
14 applicable compliance response period for a person presented  
15 with a request for evidence of financial responsibility under  
16 IC 9-25-9-1; or  
17 (2) receives a certificate that does not indicate that financial



1 responsibility was in effect with respect to the motor vehicle or  
 2 operation of the motor vehicle that the person was operating when  
 3 the person committed the violation described in the judgment or  
 4 abstract received by the bureau under IC 9-25-9-1;  
 5 the bureau shall take action under subsection (d).

6 (c) If the bureau:

7 (1) does not receive a certificate of compliance during the  
 8 applicable compliance response period for a person presented  
 9 with a request under IC 9-25-10 (before its repeal); or

10 (2) receives a certificate that does not indicate that financial  
 11 responsibility was in effect on the date requested;  
 12 the bureau shall take action under subsection (d).

13 (d) Under the conditions set forth in subsection (a), (b), or (c), the  
 14 bureau shall immediately suspend the person's driving privileges or  
 15 motor vehicle registration, or both, as determined by the bureau, for at  
 16 least ninety (90) days and not more than one (1) year. The suspension  
 17 of a person's driving privileges or motor vehicle registration, or both,  
 18 may be imposed only one (1) time under this subsection or IC 9-25-8-2  
 19 for the same incident.

20 (e) Except as provided in subsection (f) **or (g)**, if subsection (a), (b),  
 21 or (c) applies to a person, the bureau shall suspend the driving  
 22 privileges of the person irrespective of the following:

23 (1) The sale or other disposition of the motor vehicle by the  
 24 owner.

25 (2) The cancellation or expiration of the registration of the motor  
 26 vehicle.

27 (3) An assertion by the person that the person did not own the  
 28 motor vehicle and therefore had no control over whether financial  
 29 responsibility was in effect with respect to the motor vehicle.

30 (f) The bureau shall not suspend the driving privileges of a person  
 31 to which subsection (a), (b), or (c) applies if the person, through a  
 32 certificate of compliance or another communication with the bureau,  
 33 establishes to the satisfaction of the bureau that the motor vehicle that  
 34 the person was operating when the accident referred to in subsection  
 35 (a) took place or when the violation referred to in subsection (b) or (c)  
 36 was committed was:

37 (1) rented from a rental company; or

38 (2) owned by the person's employer and operated by the person in  
 39 the normal course of the person's employment.

40 **(g) The bureau shall not suspend the driving privileges of a**  
 41 **person to whom subsection (a), (b), or (c) applies if the person:**

42 **(1) establishes to the satisfaction of the bureau, in a form and**



1 manner prescribed by the bureau and under penalties of  
 2 perjury, that when the accident referred to in subsection (a)  
 3 took place or when the violation referred to in subsection (b)  
 4 or (c) was committed, the person:

5 (A) was not the owner of the vehicle that the person was  
 6 operating;

7 (B) had the owner's permission to operate the vehicle at the  
 8 time of the accident or violation; and

9 (C) had no knowledge that financial responsibility was not  
 10 in effect for the vehicle at the time of the accident or  
 11 violation; and

12 (2) provides proof of financial responsibility as stated under  
 13 IC 9-25-5-7(2).

14 SECTION 2. IC 9-25-6-12, AS AMENDED BY P.L.125-2012,  
 15 SECTION 268, IS AMENDED TO READ AS FOLLOWS  
 16 [EFFECTIVE JULY 1, 2018]: Sec. 12. (a) **Except as provided in**  
 17 **subsection (b)**, whenever proof of financial responsibility is filed  
 18 showing that a policy has been issued covering all motor vehicles  
 19 owned by an insured but not insuring the person when operating a  
 20 motor vehicle not owned by the person, it is unlawful for the person to  
 21 operate a motor vehicle not owned by the person or not covered by the  
 22 certificate.

23 (b) **If the person is not the owner of a motor vehicle, the person**  
 24 **may operate the motor vehicle if the person has:**

25 (1) **the owner's permission to operate the motor vehicle; and**

26 (2) **an operator's vehicle liability policy in effect at the time of**  
 27 **operation.**

28 SECTION 3. IC 9-25-7-3, AS AMENDED BY P.L.198-2016,  
 29 SECTION 545, IS AMENDED TO READ AS FOLLOWS  
 30 [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The bureau shall, upon  
 31 request, cancel a bond or return a certificate of insurance, direct the  
 32 treasurer of state to return to the person entitled any money or  
 33 securities deposited under this article as proof of financial  
 34 responsibility, or waive the requirement of filing proof of financial  
 35 responsibility in any of the following circumstances:

36 (1) At any time after three (3) years from the date the proof was  
 37 required, if during the three (3) year period preceding the request  
 38 the person furnishing the proof has not been convicted of: ~~an~~  
 39 ~~offense referred to in IC 9-30-4-6.1.~~

40 (A) **manslaughter or reckless homicide resulting from the**  
 41 **operation of a motor vehicle;**

42 (B) **knowingly making a false application, or committing**



perjury with respect to an application made, under:

(i) IC 9-30-13-0.5;

(ii) IC 9-30-16; or

(iii) any other law requiring the registration of motor vehicles or regulating motor vehicle operation on highways;

(C) three (3) charges of criminal recklessness involving the use of a motor vehicle within the preceding twelve (12) months; or

(D) failure to:

(i) stop and give information or assistance; or

(ii) stop and disclose the individual's identity;

at the scene of an accident that has resulted in death, personal injury, or property damage in excess of two hundred dollars (\$200).

(2) If the person on whose behalf the proof was filed dies or the person becomes permanently incapable of operating a motor vehicle.

(3) If the person who has given proof of financial responsibility surrenders the person's driver's license, registration certificates, and registration plates to the bureau. The bureau may not release the proof if an action for damages upon a liability referred to in this article is pending, a judgment upon a liability is outstanding and unsatisfied, or the bureau has received notice that the person has, within the period of three (3) months immediately preceding, been involved as a driver in a motor vehicle accident. An affidavit of the applicant of the nonexistence of the facts referred to in this subdivision is sufficient evidence of the nonexistence of the facts in the absence of evidence to the contrary in the records of the department.

(b) Whenever a person to whom proof has been surrendered under subsection (a)(3) applies for an operator's or chauffeur's license or the registration of a motor vehicle within a period of three (3) years from the date the proof of financial responsibility was originally required, the bureau shall reject the application unless the applicant reestablishes the proof for the remainder of the period.

SECTION 4. IC 9-30-4-6.1 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 6.1: (a) The bureau shall suspend or revoke the current driver's license or driving privileges and all certificates of registration and proof of registration issued to or registered in the name of an individual who is convicted of any of the following:~~

~~(1) Manslaughter or reckless homicide resulting from the~~



1 operation of a motor vehicle.

2 (2) Knowingly making a false application; or committing perjury  
3 with respect to an application made; under:

4 (A) this chapter; or

5 (B) any other law requiring the registration of motor vehicles  
6 or regulating motor vehicle operation on highways.

7 (3) Three (3) charges of criminal recklessness involving the use  
8 of a motor vehicle within the preceding twelve (12) months.

9 (4) Failure to stop and give information or assistance or failure to  
10 stop and disclose the individual's identity at the scene of an  
11 accident that has resulted in death, personal injury, or property  
12 damage in excess of two hundred dollars (\$200).

13 However, and unless otherwise required by law, the bureau may not  
14 suspend a certificate of registration or proof of registration if the  
15 individual gives and maintains, during the three (3) years following the  
16 date of suspension or revocation, proof of financial responsibility in the  
17 future in the manner specified in this section.

18 (b) The bureau shall suspend a driver's license or driving privileges  
19 of an individual upon conviction in another jurisdiction for the  
20 following:

21 (1) Manslaughter or reckless homicide resulting from the  
22 operation of a motor vehicle.

23 (2) Knowingly making a false application; or committing perjury  
24 with respect to an application made; under:

25 (A) this chapter; or

26 (B) any other law requiring the registration of motor vehicles  
27 or regulating motor vehicle operation on highways.

28 (3) Three (3) charges of criminal recklessness involving the use  
29 of a motor vehicle within the preceding twelve (12) months.

30 (4) Failure to stop and give information or assistance or failure to  
31 stop and disclose the individual's identity at the scene of an  
32 accident that has resulted in death, personal injury, or property  
33 damage in excess of two hundred dollars (\$200).

34 However, if property damage under subdivision (4) is equal to or less  
35 than two hundred dollars (\$200), the bureau may determine whether  
36 the driver's license or driving privileges and certificates of registration  
37 and proof of registration shall be suspended or revoked.

38 (c) An individual whose driving privileges are suspended under this  
39 chapter is eligible for specialized driving privileges under IC 9-30-16.

40 (d) A suspension or revocation remains in effect and a new or  
41 renewal license may not be issued to the individual and a motor vehicle  
42 may not be registered in the name of the individual as follows:



1 (1) Except as provided in subdivision (2), for six (6) months after  
2 the date of conviction or on the date on which the individual is  
3 otherwise eligible for a license; whichever is later.

4 (2) Upon conviction of an offense described in subsection (a)(1);  
5 (a)(4); (b)(1); or (b)(4); when the accident has resulted in death;  
6 for a fixed period of at least two (2) years and not more than five  
7 (5) years; to be fixed by the bureau based upon recommendation  
8 of the court entering a conviction. A new or reinstated driver's  
9 license or driving privileges may not be issued to the individual  
10 unless that individual, within the three (3) years following the  
11 expiration of the suspension or revocation; gives and maintains in  
12 force at all times during the effective period of a new or reinstated  
13 license proof of financial responsibility in the future in the  
14 manner specified in this chapter. However, the liability of the  
15 insurance carrier under a motor vehicle liability policy that is  
16 furnished for proof of financial responsibility in the future as set  
17 out in this chapter becomes absolute whenever loss or damage  
18 covered by the policy occurs; and the satisfaction by the insured  
19 of a final judgment for loss or damage is not a condition precedent  
20 to the right or obligation of the carrier to make payment on  
21 account of loss or damage; but the insurance carrier has the right  
22 to settle a claim covered by the policy. If the settlement is made  
23 in good faith, the amount must be deducted from the limits of  
24 liability specified in the policy. A policy may not be canceled or  
25 annulled with respect to a loss or damage by an agreement  
26 between the carrier and the insured after the insured has become  
27 responsible for the loss or damage; and a cancellation or  
28 annulment is void. The policy may provide that the insured or any  
29 other person covered by the policy shall reimburse the insurance  
30 carrier for payment made on account of any loss or damage claim  
31 or suit involving a breach of the terms, provisions; or conditions  
32 of the policy. If the policy provides for limits that exceed the  
33 limits specified in this chapter; the insurance carrier may plead  
34 against any plaintiff; with respect to the amount of the excess  
35 limits of liability; any defenses that the carrier may be entitled to  
36 plead against the insured. The policy may further provide for  
37 prorating of the insurance with other applicable valid and  
38 collectible insurance. An action does not lie against the insurance  
39 carrier by or on behalf of any claimant under the policy until a  
40 final judgment has been obtained after actual trial by or on behalf  
41 of any claimant under the policy.

42 (e) The bureau may take action as required in this section upon



1 receiving satisfactory evidence of a conviction of an individual in  
2 another state:

3 (f) A suspension or revocation under this section or IC 9-30-13-0.5  
4 stands pending appeal of the conviction to a higher court and may be  
5 set aside or modified only upon the receipt by the bureau of the  
6 certificate of the court reversing or modifying the judgment that the  
7 cause has been reversed or modified. However, if the suspension or  
8 revocation follows a conviction in a court of no record in Indiana, the  
9 suspension or revocation is stayed pending appeal of the conviction to  
10 a court of record:

11 (g) A person aggrieved by an order or act of the bureau under this  
12 section or IC 9-30-13-0.5 may file a petition for a court review:

13 (h) An entry in the driving record of a defendant stating that notice  
14 of suspension or revocation was mailed by the bureau to the defendant  
15 constitutes prima facie evidence that the notice was mailed to the  
16 defendant's address as shown in the records of the bureau:

17 SECTION 5. IC 9-30-4-9.1 IS ADDED TO THE INDIANA CODE  
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
19 1, 2018]: **Sec. 9.1. (a) Except as provided in subsections (b), (c), and  
20 (d), the bureau may suspend or revoke the driver's license, permit,  
21 or driving privileges of an Indiana resident for a period of not  
22 more than one (1) year upon receiving notice of a conviction of the  
23 person in another state of an offense that, if committed in Indiana,  
24 would be grounds for the suspension or revocation of the person's  
25 license, permit, or driving privileges. A person whose driver's  
26 license, permit, or driving privileges are suspended under this  
27 subsection is eligible for specialized driving privileges under  
28 IC 9-30-16-4.**

29 (b) The bureau shall suspend the driver's license, permit, or  
30 driving privileges of an Indiana resident for a period of one (1)  
31 year upon receiving notice of the conviction of the person in  
32 another state of an offense that:

- 33 (1) involves the use of a motor vehicle; and  
34 (2) caused or resulted in serious bodily injury to another  
35 person.

36 A person whose driver's license, permit, or driving privileges are  
37 suspended under this subsection is eligible for specialized driving  
38 privileges under IC 9-30-16-4.

39 (c) The bureau shall suspend the driver's license, permit, or  
40 driving privileges of an Indiana resident for a period of one (1)  
41 year upon receiving notice of the conviction of the person in  
42 another state of an offense that involves the operation of a motor





1 vehicle while the person is intoxicated, if the person has a prior  
2 conviction:

3 (1) in another state of an offense that involves the operation  
4 of a motor vehicle while the person is intoxicated; or

5 (2) under IC 9-30-5.

6 A person whose driver's license, permit, or driving privileges are  
7 suspended under this subsection is eligible for specialized driving  
8 privileges under IC 9-30-16-4.

9 (d) The bureau shall suspend the driver's license, permit, or  
10 driving privileges of an Indiana resident for a period of two (2)  
11 years upon receiving notice of the conviction of the person in  
12 another state of an offense that:

13 (1) involves the operation of a motor vehicle; and

14 (2) caused the death of another person.

15 A person whose driver's license, permit, or driving privileges are  
16 suspended under this subsection is not eligible for specialized  
17 driving privileges under IC 9-30-16-4 during the period for which  
18 the person's driver's license, permit, or driving privileges are  
19 suspended under this subsection.

20 (e) A suspension or revocation under this section stands pending  
21 any proceeding for review of an action of the bureau taken under  
22 this section.

23 (f) A person aggrieved by an act of the bureau under this section  
24 may seek relief under IC 9-33-2.

25 SECTION 6. IC 9-30-6-12, AS AMENDED BY P.L.149-2015,  
26 SECTION 105, IS AMENDED TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 2018]: Sec. 12. (a) If a court recommends  
28 suspension of driving privileges under this chapter, IC 9-30-5, or  
29 IC 9-30-9, the bureau shall fix the period of suspension in accordance  
30 with the recommendation of the court. If the court fails to recommend  
31 a fixed period of suspension, or recommends a fixed term that is less  
32 than the minimum term required by statute, the bureau shall impose the  
33 minimum period of suspension required by statute.

34 (b) Except as provided in subsection (c), during the three (3) years  
35 following the termination of the suspension the person's driving  
36 privileges remain suspended until the person provides proof of future  
37 financial responsibility in force under IC 9-25.

38 (c) If a court recommends suspension of a person's driving  
39 privileges for a conviction under IC 9-30-5, during the three (3) years  
40 following the termination of the suspension the person's driving  
41 privileges remain suspended until the person provides proof of future  
42 financial responsibility in force under IC 9-25. However, if a court



1 recommends suspension of the driving privileges, under **this chapter**  
 2 **or** IC 9-30-5, of a person who is arrested for or charged with an offense  
 3 committed under **this chapter or** IC 9-30-5, the person is not required  
 4 to provide proof of future financial responsibility under IC 9-25 unless  
 5 and until the person is convicted under IC 9-30-5.

6 (d) If at any time during the three (3) years following the  
 7 termination of the suspension imposed under subsection (a) a person  
 8 who has provided proof of future financial responsibility under IC 9-25  
 9 fails to maintain the proof, the bureau shall suspend the person's  
 10 driving privileges until the person again provides proof of future  
 11 financial responsibility under IC 9-25.

12 SECTION 7. IC 9-30-13-0.5, AS AMENDED BY P.L.198-2016,  
 13 SECTION 604, IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2018]: Sec. 0.5. (a) A court shall forward to the  
 15 bureau a certified abstract of the record of the conviction of a person  
 16 in the court for a violation of a law relating to motor vehicles.

17 (b) If in the opinion of the court a defendant should be deprived of  
 18 the privilege to operate a motor vehicle upon a public highway, the  
 19 court may recommend the suspension of the convicted person's driving  
 20 privileges for a period that does not exceed the maximum period of  
 21 incarceration for the offense of which the person was convicted.

22 (c) The bureau shall comply with the court's recommendation.

23 (d) At the time of a conviction referred to in subsection (a) or under  
 24 IC 9-30-5-7, the court may obtain and destroy the defendant's current  
 25 driver's license.

26 (e) An abstract required by this section must be in the form  
 27 prescribed by the bureau and, when certified, shall be accepted by an  
 28 administrative agency or a court as prima facie evidence of the  
 29 conviction and all other action stated in the abstract.

30 **(f) A suspension or revocation under this section stands pending**  
 31 **appeal of the conviction to a higher court and may be set aside or**  
 32 **modified only upon receipt by the bureau of the certificate of the**  
 33 **court reversing or modifying the judgment that the cause has been**  
 34 **reversed or modified. However, if the suspension or revocation**  
 35 **follows a conviction in a court of no record in Indiana, the**  
 36 **suspension or revocation is stayed pending appeal of the conviction**  
 37 **to a court of record.**

38 (g) A person aggrieved by an order or act of the bureau under  
 39 this section may file a petition for a court review.

40 (h) An entry in the driving record of a defendant stating that  
 41 notice of suspension or revocation was mailed by the bureau to the  
 42 defendant constitutes prima facie evidence that the notice was



- 1 **mailed to the defendant's address as shown in the records of the**  
 2 **bureau.**
- 3 SECTION 8. IC 9-30-16-3, AS AMENDED BY P.L.120-2017,  
 4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2018]: Sec. 3. (a) This section does not apply to specialized  
 6 driving privileges granted in accordance with section 3.5 of this  
 7 chapter. If a court orders a suspension of driving privileges under this  
 8 chapter, or imposes a suspension of driving privileges under  
 9 IC 9-30-6-9(c), the court may stay the suspension and grant a  
 10 specialized driving privilege as set forth in this section.
- 11 (b) An individual who seeks specialized driving privileges **after the**  
 12 **court has imposed the suspension of the individual's driving**  
 13 **privileges** must file a petition for specialized driving privileges in each  
 14 court that has ordered or imposed a suspension of the individual's  
 15 driving privileges. Each petition must:
- 16 (1) be verified by the petitioner;
  - 17 (2) state the petitioner's age, date of birth, and address;
  - 18 (3) state the grounds for relief and the relief sought; **and**
  - 19 ~~(4) be filed in a circuit or superior court; and~~
  - 20 ~~(5)~~ **(4)** be served on the bureau and the prosecuting attorney.
- 21 A prosecuting attorney shall appear on behalf of the bureau to respond  
 22 to a petition filed under this subsection.
- 23 (c) Regardless of the underlying offense, specialized driving  
 24 privileges granted under this section shall be granted for:
- 25 (1) at least one hundred eighty (180) days; and
  - 26 (2) not more than two and one-half ~~(2.5)~~ **(2 1/2)** years.
- 27 (d) The terms of specialized driving privileges must be determined  
 28 by a court.
- 29 (e) A stay of a suspension and specialized driving privileges may  
 30 not be granted to an individual who:
- 31 (1) has previously been granted specialized driving privileges;
  - 32 and
  - 33 (2) has more than one (1) conviction under section 5 of this  
 34 chapter.
- 35 (f) An individual who has been granted specialized driving  
 36 privileges shall:
- 37 (1) maintain proof of future financial responsibility insurance  
 38 during the period of specialized driving privileges;
  - 39 (2) carry a copy of the order granting specialized driving  
 40 privileges or have the order in the vehicle being operated by the  
 41 individual;
  - 42 (3) produce the copy of the order granting specialized driving



1 privileges upon the request of a police officer; and

2 (4) carry a validly issued state identification card or driver's  
3 license.

4 (g) An individual who holds a commercial driver's license and has  
5 been granted specialized driving privileges under this chapter may not,  
6 for the duration of the suspension for which the specialized driving  
7 privileges are sought, operate any vehicle that requires the individual  
8 to hold a commercial driver's license to operate the vehicle.

9 SECTION 9. IC 34-28-5-15, AS AMENDED BY P.L.197-2015,  
10 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2018]: Sec. 15. (a) This subsection does not apply to a person  
12 whose prosecution for an infraction is deferred under section 1 of this  
13 chapter **or to a person who holds a commercial driver's license**  
14 **under IC 9-24-6.1 and seeks to expunge a moving traffic violation.**  
15 If a person alleged to have violated a statute defining an infraction **or**  
16 **an ordinance defining a moving traffic violation:**

17 (1) is not prosecuted or if the action against the person is  
18 dismissed;

19 (2) is adjudged not to have committed the infraction **or the**  
20 **ordinance violation;** or

21 (3) is adjudged to have committed the infraction **or the**  
22 **ordinance violation** and the adjudication is subsequently  
23 vacated;

24 the court in which the action was filed shall order the clerk, ~~and~~ the  
25 operator of any state, regional, or local case management system, **and**  
26 **the bureau of motor vehicles** not to disclose or permit disclosure of  
27 information related to the infraction **or ordinance violation** to a  
28 noncriminal justice organization or an individual.

29 (b) Not earlier than five (5) years after a person:

30 (1) whose prosecution for an infraction has been deferred; or

31 (2) who was found to have violated a statute defining an  
32 infraction **or an ordinance defining a moving traffic violation;**

33 has satisfied the conditions of the deferral program or the judgment  
34 imposed for the violation, the person may petition the court to prohibit  
35 disclosure of information related to the infraction **or the ordinance**  
36 **violation** to a noncriminal justice organization or an individual. The  
37 court shall order the clerk, ~~and~~ the operator of any state, regional, or  
38 local case management system, **and the bureau of motor vehicles** not  
39 to disclose or permit disclosure of information related to the infraction  
40 **or ordinance violation** to a noncriminal justice organization or an  
41 individual if the court finds that:

42 (1) the person satisfied the judgment or conditions of the deferral



- 1 program; and  
 2 (2) at least five (5) years have passed since the date the person  
 3 satisfied the judgment or conditions of the program.  
 4 (c) If a court fails to order the clerk, ~~and~~ the operator of any state,  
 5 regional, or local case management system, **or the bureau of motor**  
 6 **vehicles** to restrict disclosure of information related to the infraction **or**  
 7 **the ordinance violation** under subsection (a), the person may petition  
 8 the court to restrict disclosure of the records related to the infraction **or**  
 9 **the ordinance violation** to a noncriminal justice organization or an  
 10 individual.  
 11 (d) A petition under subsection (b) or (c) must be verified and filed  
 12 in:  
 13 (1) the court in which the action was filed, for a person described  
 14 in subsection (a)(1);  
 15 (2) the court in which the trial was held, for a person described in  
 16 subsection (a)(2) or (a)(3); or  
 17 (3) the court finding or having jurisdiction over the violation, for  
 18 a person described in subsection (b).  
 19 (e) A petition under subsection (b) or (c) must be filed not earlier  
 20 than:  
 21 (1) if the person is adjudged not to have committed the infraction  
 22 **or violated the ordinance**, thirty (30) days after the date of  
 23 judgment;  
 24 (2) if the person's adjudication is vacated, three hundred sixty-five  
 25 (365) days after:  
 26 (A) the order vacating the adjudication is final, if there is no  
 27 appeal or the appeal is terminated before entry of an opinion  
 28 or memorandum decision; or  
 29 (B) the opinion or memorandum decision vacating the  
 30 adjudication is certified;  
 31 (3) if the person is not prosecuted, two (2) years after the alleged  
 32 conduct or violation occurred;  
 33 (4) if the action is dismissed, thirty (30) days after the action is  
 34 dismissed, if a new action is not filed; or  
 35 (5) if the person participated in a deferral program or is found to  
 36 have violated the statute defining the infraction **or ordinance**  
 37 **defining the moving traffic violation**, not earlier than five (5)  
 38 years after the date the judgment for the violation is satisfied or  
 39 the conditions of the deferral program are met.  
 40 (f) A petition under subsection (b) or (c) must set forth:  
 41 (1) the date of the alleged violation;  
 42 (2) the violation or alleged violation;



- 1 (3) the date the action was dismissed, if applicable;  
 2 (4) the date of judgment, if applicable;  
 3 (5) the date the adjudication was vacated, if applicable;  
 4 (6) the basis on which the adjudication was vacated, if applicable;  
 5 (7) the date the judgment is satisfied or the conditions of the  
 6 deferral program were met, if applicable;  
 7 (8) the law enforcement agency employing the officer who issued  
 8 the complaint, if applicable;  
 9 (9) any other known identifying information, such as the name of  
 10 the officer, case number, or court cause number;  
 11 (10) the date of the petitioner's birth; and  
 12 (11) at the option of the petitioner, the:  
 13 (A) petitioner's driver's license number, state identification  
 14 card number, or photo exempt identification card number; or  
 15 (B) last four (4) digits of the petitioner's Social Security  
 16 number.
- 17 (g) A copy of a petition filed under subsection (b) or (c) shall be  
 18 served on the prosecuting attorney **for violations of state statutes or**  
 19 **on the attorney representing the municipal corporation for**  
 20 **violations of ordinances.**
- 21 (h) If the prosecuting attorney **or the attorney representing the**  
 22 **municipal corporation** wishes to oppose a petition filed under  
 23 subsection (b) or (c), the prosecuting attorney **or the attorney**  
 24 **representing the municipal corporation** shall, not later than thirty  
 25 (30) days after the petition is filed, file a notice of opposition with the  
 26 court setting forth reasons for opposing the petition. The prosecuting  
 27 attorney shall attach to the notice of opposition a certified copy of any  
 28 documentary evidence showing that the petitioner is not entitled to  
 29 relief. A copy of the notice of opposition and copies of any  
 30 documentary evidence shall be served on the petitioner in accordance  
 31 with the Indiana Rules of Trial Procedure.
- 32 (i) The court may, with respect to a petition filed under subsection  
 33 (b) or (c):  
 34 (1) summarily grant the petition;  
 35 (2) set the matter for hearing; or  
 36 (3) summarily deny the petition, if the court determines that:  
 37 (A) the petition is insufficient; or  
 38 (B) based on documentary evidence submitted to the court, the  
 39 petitioner is not entitled to have access to the petitioner's  
 40 records restricted.
- 41 (j) If a notice of opposition is filed under subsection (h) and the  
 42 court does not summarily grant or summarily deny the petition, the



1 court shall set the matter for a hearing.

2 (k) After a hearing is held under subsection (j), the court shall grant  
3 the petition filed under:

4 (1) subsection (b) if the person is entitled to relief under that  
5 subsection; or

6 (2) subsection (c) if the person is entitled to relief under  
7 subsection (a).

8 (l) If the court grants a petition filed under subsection (b) or (c), the  
9 court shall order the clerk, ~~and~~ the operator of any state, regional, or  
10 local case management system, **and the bureau of motor vehicles** not  
11 to disclose or permit disclosure of information related to the infraction  
12 **or the ordinance violation** to a noncriminal justice organization or an  
13 individual.

14 SECTION 10. IC 35-44.1-3-1, AS AMENDED BY P.L.198-2016,  
15 SECTION 673, IS AMENDED TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) A person who knowingly or  
17 intentionally:

18 (1) forcibly resists, obstructs, or interferes with a law enforcement  
19 officer or a person assisting the officer while the officer is  
20 lawfully engaged in the execution of the officer's duties;

21 (2) forcibly resists, obstructs, or interferes with the authorized  
22 service or execution of a civil or criminal process or order of a  
23 court; or

24 (3) flees from a law enforcement officer after the officer has, by  
25 visible or audible means, including operation of the law  
26 enforcement officer's siren or emergency lights, identified himself  
27 or herself and ordered the person to stop;

28 commits resisting law enforcement, a Class A misdemeanor, except as  
29 provided in subsection (b).

30 (b) The offense under subsection (a) is a:

31 (1) Level 6 felony if:

32 (A) the offense is described in subsection (a)(3) and the person  
33 uses a vehicle to commit the offense; or

34 (B) while committing any offense described in subsection (a),  
35 the person draws or uses a deadly weapon, inflicts bodily  
36 injury on or otherwise causes bodily injury to another person,  
37 or operates a vehicle in a manner that creates a substantial risk  
38 of bodily injury to another person;

39 (2) Level 5 felony if, while committing any offense described in  
40 subsection (a), the person operates a vehicle in a manner that  
41 causes serious bodily injury to another person;

42 (3) Level 3 felony if, while committing any offense described in



1 subsection (a), the person operates a vehicle in a manner that  
2 causes the death of another person; and

3 (4) Level 2 felony if, while committing any offense described in  
4 subsection (a), the person operates a vehicle in a manner that  
5 causes the death of a law enforcement officer while the law  
6 enforcement officer is engaged in the officer's official duties.

7 (c) If a person uses a vehicle to commit a felony offense under  
8 subsection (b)(1)(B), (b)(2), (b)(3), or (b)(4), as part of the criminal  
9 penalty imposed for the offense, the court shall impose a minimum  
10 executed sentence of at least:

11 (1) thirty (30) days, if the person does not have a prior unrelated  
12 conviction under this section;

13 (2) one hundred eighty (180) days, if the person has one (1) prior  
14 unrelated conviction under this section; or

15 (3) one (1) year, if the person has two (2) or more prior unrelated  
16 convictions under this section.

17 (d) Notwithstanding IC 35-50-2-2.2 and IC 35-50-3-1, the  
18 mandatory minimum sentence imposed under subsection (c) may not  
19 be suspended.

20 (e) If a person is convicted of an offense involving the use of a  
21 motor vehicle under:

22 (1) subsection (b)(1)(A), if the person exceeded the speed limit by  
23 at least twenty (20) miles per hour while committing the offense;

24 (2) subsection (b)(2); or

25 (3) subsection (b)(3);

26 the court may notify the bureau of motor vehicles to suspend or revoke  
27 the person's driver's license and all certificates of registration and  
28 license plates issued or registered in the person's name ~~in accordance~~  
29 ~~with IC 9-30-4-6.1(b)(3) for the period described in IC 9-30-4-6.1(d)(1)~~  
30 ~~or IC 9-30-4-6.1(d)(2): for the period described in subsection (g).~~  
31 The court shall inform the bureau whether the person has been  
32 sentenced to a term of incarceration. At the time of conviction, the  
33 court may obtain the person's current driver's license and return the  
34 license to the bureau of motor vehicles.

35 (f) A person may not be charged or convicted of a crime under  
36 subsection (a)(3) if the law enforcement officer is a school resource  
37 officer acting in the officer's capacity as a school resource officer.

38 **(g) If a suspension or revocation is in effect under subsection (e),**  
39 **a new or renewal license may not be issued to the individual and a**  
40 **motor vehicle may not be registered in the name of the individual:**

41 **(1) except as provided in subdivision (2), for six (6) months**  
42 **after the date of conviction or on the date on which the**





1 individual is eligible for a license, whichever is later; or  
2 (2) if the accident resulted in death, for a fixed period of at  
3 least two (2) years and not more than five (5) years, to be  
4 determined by the bureau based upon recommendation of the  
5 court entering a conviction.

6 (h) A new or reinstated driver's license may not be issued and  
7 driving privileges may not be granted to an individual who is  
8 subject to subsection (g)(2) unless the individual, within the three  
9 (3) years following the expiration of the suspension or revocation,  
10 gives and maintains in force at all times during the effective period  
11 of a new or reinstated license proof of future financial  
12 responsibility under IC 9-25.

13 (i) The liability of the insurance carrier under a motor vehicle  
14 liability policy that is furnished for proof of future financial  
15 responsibility under IC 9-25 as required under subsection (h)  
16 becomes absolute whenever loss or damage covered by the policy  
17 occurs, and the satisfaction by the insured of a final judgment for  
18 loss or damage is not a condition precedent to the right or  
19 obligation of the carrier to make payment on account of loss or  
20 damage, but the insurance carrier has the right to settle a claim  
21 covered by the policy.

22 (j) If the settlement under subsection (i) is made in good faith,  
23 the amount must be deducted from the limits of liability specified  
24 in the policy.

25 (k) A policy described in subsection (i) may not be canceled or  
26 annulled with respect to a loss or damage by an agreement between  
27 the carrier and the insured after the insured has become  
28 responsible for the loss or damage, and a cancellation or  
29 annulment is void.

30 (l) A policy described in subsection (i) may provide that the  
31 insured or any other person covered by the policy shall reimburse  
32 the insurance carrier for payment made on account of any loss or  
33 damage claim or suit involving a breach of the terms, provisions,  
34 or conditions of the policy.

35 (m) If a policy described in subsection (i) provides for limits that  
36 exceed the limits specified in IC 9-25, the insurance carrier may  
37 plead against any plaintiff, with respect to the amount of the excess  
38 limits of liability, any defenses that the carrier may be entitled to  
39 plead against the insured.

40 (n) A policy described in subsection (i) may further provide for  
41 prorating of the insurance with other applicable valid and  
42 collectible insurance.



1           **(o) An action does not lie against the insurance carrier by or on**  
2           **behalf of any claimant under a policy described in subsection (i)**  
3           **until a final judgment has been obtained after actual trial by or on**  
4           **behalf of any claimant under the policy.**

