

SENATE BILL No. 331

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-26-1-1.1; IC 9-30-5-5; IC 31-30-3-5; IC 35-42-1; IC 35-50-2-2.2.

Synopsis: Crimes involving the death of an individual. Increases the penalty for certain crimes involving death. Provides that a court may suspend only that part of a sentence that is in excess of the minimum sentence for a person convicted of a Level 3 or Level 4 felony for certain crimes involving death or serious bodily injury. (Current law provides that a court may suspend any part of a sentence for certain crimes involving death or serious bodily injury.) Makes a technical correction.

Effective: July 1, 2019.

Ford Jon

January 7, 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. 331

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 9-26-1-1.1, AS AMENDED BY P.L.123-2017,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 1.1. (a) The operator of a motor vehicle involved
4 in an accident shall do the following:
5 (1) Except as provided in section 1.2 of this chapter, the operator
6 shall immediately stop the operator's motor vehicle:
7 (A) at the scene of the accident; or
8 (B) as close to the accident as possible;
9 in a manner that does not obstruct traffic more than is necessary.
10 (2) Remain at the scene of the accident until the operator does the
11 following:
12 (A) Gives the operator's name and address and the registration
13 number of the motor vehicle the operator was driving to any
14 person involved in the accident.
15 (B) Exhibits the operator's driver's license to any person
16 involved in the accident or occupant of or any person attending
17 to any vehicle involved in the accident.



- 1 (3) If the accident results in the injury or death of another person,
 2 the operator shall, in addition to the requirements of subdivisions
 3 (1) and (2):
 4 (A) provide reasonable assistance to each person injured in or
 5 entrapped by the accident, as directed by a law enforcement
 6 officer, medical personnel, or a 911 telephone operator; and
 7 (B) as soon as possible after the accident, immediately give
 8 notice of the accident, or ensure that another person gives
 9 notice of the accident, by the quickest means of
 10 communication to one (1) of the following:
 11 (i) The local police department, if the accident occurs within
 12 a municipality.
 13 (ii) The office of the county sheriff or the nearest state police
 14 post, if the accident occurs outside a municipality.
 15 (iii) A 911 telephone operator.
 16 (4) If the accident involves a collision with an unattended vehicle
 17 or damage to property other than a vehicle, the operator shall, in
 18 addition to the requirements of subdivisions (1) and (2):
 19 (A) take reasonable steps to locate and notify the owner or
 20 person in charge of the damaged vehicle or property of the
 21 damage; and
 22 (B) if after reasonable inquiry the operator cannot find the
 23 owner or person in charge of the damaged vehicle or property,
 24 the operator must contact a law enforcement officer or agency
 25 and provide the information required by this section.
 26 (b) An operator of a motor vehicle who knowingly or intentionally
 27 fails to comply with subsection (a) commits leaving the scene of an
 28 accident, a Class B misdemeanor. However, the offense is:
 29 (1) a Class A misdemeanor if the accident results in bodily injury
 30 to another person;
 31 (2) a Level 6 felony if:
 32 (A) the accident results in serious bodily injury to another
 33 person; or
 34 (B) within the five (5) years preceding the commission of the
 35 offense, the operator had a previous conviction of any of the
 36 offenses listed in IC 9-30-10-4(a);
 37 (3) a ~~Level 5~~ **Level 4** felony if the accident results in the death of
 38 another person; and
 39 (4) a Level 3 felony if the operator knowingly or intentionally
 40 fails to stop or comply with subsection (a) during or after the
 41 commission of the offense of operating while intoxicated causing
 42 serious bodily injury (IC 9-30-5-4) or operating while intoxicated



- 1 causing death (IC 9-30-5-5).
- 2 (c) An operator of a motor vehicle who commits an offense under
 3 subsection (b)(1), (b)(2), (b)(3), or (b)(4) commits a separate offense
 4 for each person whose bodily injury or death is caused by the failure of
 5 the operator of the motor vehicle to comply with subsection (a).
- 6 (d) A court may order terms of imprisonment imposed on a person
 7 convicted of more than one (1) offense described in subsection (b)(1),
 8 (b)(2), (b)(3), or (b)(4) to run consecutively. Consecutive terms of
 9 imprisonment imposed under this subsection are not subject to the
 10 sentencing restrictions set forth in IC 35-50-1-2(c) through
 11 IC 35-50-1-2(d).
- 12 SECTION 2. IC 9-30-5-5, AS AMENDED BY P.L.63-2018,
 13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2019]: Sec. 5. (a) A person who causes the death of another
 15 person when operating a vehicle:
- 16 (1) with an alcohol concentration equivalent to at least
 17 eight-hundredths (0.08) gram of alcohol per:
- 18 (A) one hundred (100) milliliters of the person's blood; or
 19 (B) two hundred ten (210) liters of the person's breath;
- 20 (2) with a controlled substance listed in schedule I or II of
 21 IC 35-48-2 or its metabolite in the person's blood; or
 22 (3) while intoxicated;
- 23 commits a ~~Level 5~~ **Level 4** felony, except as provided in subsection (b).
- 24 (b) A person who causes the death of another person when operating
 25 a vehicle under the conditions set forth in subsection (a)(1), (a)(2), or
 26 (a)(3) commits a ~~Level 4~~ **Level 3** felony if:
- 27 (1) the person operating the vehicle has a previous conviction of
 28 operating while intoxicated within the ten (10) years preceding
 29 the commission of the offense;
- 30 (2) the person operating the vehicle knows that the person's
 31 driver's license, driving privilege, or permit is suspended or
 32 revoked for a previous conviction for operating a vehicle while
 33 intoxicated; or
 34 (3) the driving privileges of the person operating the vehicle are
 35 suspended under IC 9-30-10 because the person is a habitual
 36 traffic violator.
- 37 (c) A person:
- 38 (1) who causes the death of another person when operating a
 39 vehicle
 40 (+) with an alcohol concentration equivalent to at least
 41 fifteen-hundredths (0.15) gram of alcohol per:
 42 (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) **at least twenty-one (21) years of age who causes the death**
 3 **of another person when operating a vehicle** with a controlled
 4 substance listed in schedule I or II of IC 35-48-2 or its metabolite
 5 in the person's blood;
 6 commits a ~~Level 4~~ **Level 3** felony.

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

9 (1) with an alcohol concentration equivalent to at least
 10 eight-hundredths (0.08) gram of alcohol per:

11 (A) one hundred (100) milliliters of the person's blood; or

12 (B) two hundred ten (210) liters of the person's breath; or

13 (2) with a controlled substance listed in schedule I or II of
 14 IC 35-48-2 or its metabolite in the person's blood;

15 commits a Level 6 felony.

16 (e) A person who commits an offense under subsection (a), (b), (c),
 17 or (d) commits a separate offense for each person or law enforcement
 18 animal whose death is caused by the violation of subsection (a), (b),
 19 (c), or (d).

20 (f) It is a defense under subsection (a), (b), (c), or (d) that the person
 21 accused of causing the death of another person or a law enforcement
 22 animal when operating a vehicle with a controlled substance listed in
 23 schedule I or II of IC 35-48-2 or its metabolite in the person's blood
 24 consumed the controlled substance in accordance with a valid
 25 prescription or order of a practitioner (as defined in IC 35-48-1) who
 26 acted in the course of the practitioner's professional practice.

27 SECTION 3. IC 31-30-3-5, AS AMENDED BY P.L.158-2013,
 28 SECTION 316, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2019]: Sec. 5. Except for those cases in which
 30 the juvenile court has no jurisdiction in accordance with IC 31-30-1-4,
 31 the court shall, upon motion of the prosecuting attorney and after full
 32 investigation and hearing, waive jurisdiction if it finds that:

33 (1) the child is charged with an act that, if committed by an adult,
 34 would be:

35 (A) a Level 1 felony, Level 2 felony, Level 3 felony, or Level
 36 4 felony, except a felony defined by IC 35-48-4;

37 (B) involuntary manslaughter as a ~~Level 5~~ **Level 4** felony
 38 under IC 35-42-1-4; or

39 (C) reckless homicide as a ~~Level 5~~ **Level 4** felony under
 40 IC 35-42-1-5;

41 (2) there is probable cause to believe that the child has committed
 42 the act; and



1 (3) the child was at least sixteen (16) years of age when the act
 2 charged was allegedly committed;
 3 unless it would be in the best interests of the child and of the safety and
 4 welfare of the community for the child to remain within the juvenile
 5 justice system.

6 SECTION 4. IC 35-42-1-4, AS AMENDED BY P.L.203-2018,
 7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2019]: Sec. 4. (a) As used in this section, "fetus" means a
 9 fetus in any stage of development.

10 (b) A person who kills another human being while committing or
 11 attempting to commit:

- 12 (1) a Level 5 or Level 6 felony that inherently poses a risk of
- 13 serious bodily injury;
- 14 (2) a Class A misdemeanor that inherently poses a risk of serious
- 15 bodily injury; or
- 16 (3) battery;

17 commits involuntary manslaughter, a ~~Level 5~~ **Level 4** felony.

18 (c) Except as provided in section 6.5 of this chapter, a person who
 19 kills a fetus while committing or attempting to commit:

- 20 (1) a Level 5 or Level 6 felony that inherently poses a risk of
- 21 serious bodily injury;
- 22 (2) a Class A misdemeanor that inherently poses a risk of serious
- 23 bodily injury;
- 24 (3) a battery offense included in IC 35-42-2; or
- 25 (4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a
- 26 vehicle while intoxicated);

27 commits involuntary manslaughter, a ~~Level 5~~ **Level 4** felony.

28 SECTION 5. IC 35-42-1-5, AS AMENDED BY P.L.158-2013,
 29 SECTION 415, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2019]: Sec. 5. A person who recklessly kills
 31 another human being commits reckless homicide, a ~~Level 5~~ **Level 4**
 32 felony.

33 SECTION 6. IC 35-50-2-2.2, AS AMENDED BY P.L.252-2017,
 34 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2019]: Sec. 2.2. (a) Except as provided in subsection (b), (c),
 36 (d), ~~or~~ (e), ~~or~~ (f), the court may suspend any part of a sentence for a
 37 felony.

38 (b) Except as provided in subsection (d), if a person is convicted of
 39 a Level 2 felony or a Level 3 felony, except a Level 2 felony or a Level
 40 3 felony concerning a controlled substance under IC 35-48-4, and has
 41 any prior unrelated felony conviction, the court may suspend only that
 42 part of a sentence that is in excess of the minimum sentence for the:



- 1 (1) Level 2 felony; or
 2 (2) Level 3 felony.
 3 (c) If:
 4 (1) a person has a prior unrelated felony conviction in any
 5 jurisdiction for dealing in a controlled substance that is not
 6 marijuana, hashish, hash oil, salvia divinorum, or a synthetic
 7 drug, including an attempt or conspiracy to commit the offense;
 8 and
 9 (2) the person is convicted of a Level 2 felony under
 10 IC 35-48-4-1.1 or IC 35-48-4-1.2;
 11 the court may suspend only that part of a sentence that is in excess of
 12 the minimum sentence for the Level 2 felony.
 13 (d) If a person:
 14 (1) is convicted of dealing in heroin as a Level 2 or Level 3 felony
 15 under IC 35-48-4-1 or IC 35-48-4-2; and
 16 (2) has a prior unrelated felony conviction;
 17 the court may suspend only that part of a sentence that is in excess of
 18 the minimum sentence for the Level 2 or Level 3 felony.
 19 **(e) If a person is convicted of:**
 20 **(1) leaving the scene of an accident causing death or serious**
 21 **bodily injury as a Level 3 or Level 4 felony under**
 22 **IC 9-26-1-1.1(b);**
 23 **(2) operating while intoxicated causing death as a Level 3 or**
 24 **Level 4 felony under IC 9-30-5-5;**
 25 **(3) involuntary manslaughter as a Level 4 felony under**
 26 **IC 35-42-1-4; or**
 27 **(4) reckless homicide as a Level 4 felony under IC 35-42-1-5;**
 28 **the court may suspend only that part of a sentence that is in excess**
 29 **of the minimum sentence for the Level 3 or Level 4 felony.**
 30 **(e)(f)** The court may suspend only that part of a sentence for murder
 31 or a Level 1 felony conviction that is in excess of the minimum
 32 sentence for murder or the Level 1 felony conviction.

