



February 21, 2014

ENGROSSED HOUSE BILL No. 1269

DIGEST OF HB 1269 (Updated February 18, 2014 1:19 pm - DI 106)

Citations Affected: IC 1-1; IC 35-38.

Synopsis: HEA 1006-2013 follow-up. Specifies that persons who committed a crime before the effective date of HEA 1006-2013 are to be sentenced in accordance with the law in effect at the time the crime was committed. Conforms provisions dealing with nonsuspendibility and community corrections to the nonsuspendibility provisions of HEA 1006-2013.

Effective: July 1, 2014.

Steuerwald, McMillin, Pierce, Lawson L

(SENATE SPONSORS — YOUNG R MICHAEL, STEELE, RANDOLPH)

January 14, 2014, read first time and referred to Committee on Courts and Criminal Code.
January 23, 2014, reported — Do Pass.
January 27, 2014, read second time, ordered engrossed. Engrossed.
January 28, 2014, read third time, passed. Yeas 92, nays 1.

SENATE ACTION

February 4, 2014, read first time and referred to Committee on Corrections and Criminal Law.
February 20, 2014, amended, reported favorably — Do Pass.

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February 21, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1269

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 1-1-5.5-21 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 21. (a) A SECTION of P.L.158-2013 does not affect:**
4 **(1) penalties incurred;**
5 **(2) crimes committed; or**
6 **(3) proceedings begun;**
7 **before the effective date of that SECTION of P.L.158-2013. Those**
8 **penalties, crimes, and proceedings continue and shall be imposed**
9 **and enforced under prior law as if that SECTION of P.L.158-2013**
10 **had not been enacted.**
11 **(b) The general assembly does not intend the doctrine of**
12 **amelioration (see *Vicory v. State*, 400 N.E.2d 1380 (Ind. 1980)) to**
13 **apply to any SECTION of P.L.158-2013.**
14 SECTION 2. IC 35-38-2.6-1, AS AMENDED BY P.L.158-2013,
15 SECTION 400, IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Except as provided in

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1 subsection (b), this chapter applies to the sentencing of a person
 2 convicted of a felony whenever any part of the sentence may not be
 3 suspended under IC 35-50-2-2.1 or IC 35-50-2-2.2.

4 (1) a felony whenever any part of the sentence may not be
 5 suspended under IC 35-50-2-2.2 or IC 35-50-2-2.1;

6 (2) a misdemeanor whenever any part of the sentence may not be
 7 suspended; or

8 (3) an offense under IC 9-30-5 (operating a vehicle while
 9 intoxicated) if the person who committed the offense has
 10 accumulated at least two (2) prior unrelated convictions under
 11 IC 9-30-5; and if the person:

12 (A) is required to serve the nonsuspendible part of the
 13 sentence in a community corrections:

14 (i) work release program; or

15 (ii) program that uses electronic monitoring as a part of the
 16 person's supervision; and

17 (B) participates in a court approved substance abuse program.

18 (b) This chapter does not apply to persons convicted of any of the
 19 following:

20 (1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.

21 (2) Except as provided in subsection (a)(3); Any of the following
 22 felonies:

23 (A) Murder (IC 35-42-1-1).

24 (B) Battery (IC 35-42-2-1) with a deadly weapon or battery
 25 causing death.

26 (C) Kidnapping (IC 35-42-3-2).

27 (D) Criminal confinement (IC 35-42-3-3) with a deadly
 28 weapon.

29 (E) Robbery (IC 35-42-5-1) resulting in serious bodily injury
 30 or with a deadly weapon.

31 (F) Arson (IC 35-43-1-1) for hire resulting in serious bodily
 32 injury.

33 (G) Burglary (IC 35-43-2-1) resulting in serious bodily injury.

34 (H) Resisting law enforcement (IC 35-44.1-3-1) with a deadly
 35 weapon.

36 (I) Escape (IC 35-44.1-3-4) with a deadly weapon.

37 (J) Rioting (IC 35-45-1-2) with a deadly weapon.

38 (K) ~~Dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the~~
 39 ~~court finds the person possessed a firearm (as defined in~~
 40 ~~IC 35-47-1-5) at the time of the offense; or the person~~
 41 ~~delivered or intended to deliver to a person under eighteen~~

42 (18) years of age at least three (3) years junior to the person



- 1 and was on a school bus or within five hundred (500) feet of:
 2 (i) school property; or
 3 (ii) a public park:
 4 (L) Dealing in methamphetamine (IC 35-48-4-1.1) if the court
 5 finds the person possessed a firearm (as defined in
 6 IC 35-47-1-5) at the time of the offense; or the person
 7 delivered or intended to deliver the methamphetamine pure or
 8 adulterated to a person under eighteen (18) years of age at
 9 least three (3) years junior to the person and was on a school
 10 bus or within five hundred (500) feet of:
 11 (i) school property; or
 12 (ii) a public park:
 13 (M) Dealing in a schedule I, II, or III controlled substance
 14 (IC 35-48-4-2) if the court finds the person possessed a firearm
 15 (as defined in IC 35-47-1-5) at the time of the offense; or the
 16 person delivered or intended to deliver to a person under
 17 eighteen (18) years of age at least three (3) years junior to the
 18 person and was on a school bus or within five hundred (500)
 19 feet of:
 20 (i) school property; or
 21 (ii) a public park:
 22 (N) An offense under IC 9-30-5 (operating a vehicle while
 23 intoxicated) and the person who committed the offense has
 24 accumulated at least two (2) prior unrelated convictions under
 25 IC 9-30-5.
 26 (O) An offense under IC 9-30-5-5(b) (operating a vehicle
 27 while intoxicated causing death).
 28 (P) (K) Aggravated battery (IC 35-42-2-1.5).
 29 (Q) (L) Disarming a law enforcement officer (IC 35-44.1-3-2).
 30 (3) An offense under IC 9-30-5-4.
 31 (4) An offense under IC 9-30-5-5.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1269, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1269 as introduced.)

Committee Vote: Yeas 10, Nays 0

Representative McMillin

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1269, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 2, delete "nonsuspendible offense." and insert "**felony whenever any part of the sentence may not be suspended under IC 35-50-2-2.1 or IC 35-50-2-2.2.**".

Page 2, strike lines 37 through 42.

Page 3, strike lines 1 through 26.

Page 3, line 27, strike "(P)" and insert "**(K)**".

Page 3, line 28, strike "(Q)" and insert "**(L)**".

Page 3, delete lines 31 through 42.

Delete page 4.

and when so amended that said bill do pass.

(Reference is to HB 1269 as printed January 24, 2014.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 10, Nays 0.

