



January 16, 2019

SENATE BILL No. 163

DIGEST OF SB 163 (Updated January 15, 2019 12:23 pm - DI 133)

Citations Affected: IC 9-30; IC 35-43.

Synopsis: Recidivist look back periods. Provides that a person commits a Level 6 felony if the person: (1) has a prior conviction for operating while intoxicated that occurred within the previous seven years; or (2) has at least two prior unrelated convictions for operating while intoxicated. Provides that a person who causes serious bodily injury to another person when operating a vehicle while intoxicated commits a Level 5 felony if the person has a previous conviction for operating while intoxicated within the previous seven years. Provides that a person commits a Level 6 felony for theft if the person has a prior unrelated conviction for theft or conversion that occurred within the previous 10 years. (Current law provides that a person commits a Level 6 felony for theft if the person has a prior unrelated conviction for theft or conversion at any time.)

Effective: July 1, 2019.

Sandlin

January 3, 2019, read first time and referred to Committee on Corrections and Criminal Law.
January 15, 2019, reported favorably — Do Pass.

SB 163—LS 6404/DI 131



January 16, 2019

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. 163

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 9-30-5-3, AS AMENDED BY P.L.158-2013,
2 SECTION 159, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) Except as provided in
4 subsection (b), a person who violates section 1 or 2 of this chapter
5 commits a Level 6 felony if:
6 (1) the person has a previous conviction of operating while
7 intoxicated that occurred within the ~~five (5)~~ **seven (7)** years
8 immediately preceding the occurrence of the violation of section
9 1 or 2 of this chapter; **or**
10 (2) the person:
11 (A) is at least twenty-one (21) years of age;
12 (B) violates section 1(b) or 2(b) of this chapter; and
13 (C) operated a vehicle in which at least one (1) passenger was
14 less than eighteen (18) years of age; **or**
15 **(3) the person has at least two (2) prior unrelated convictions**
16 **of operating while intoxicated under this chapter.**
17 (b) A person who violates section 1 or 2 of this chapter or

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- 1 subsection (a)(2) commits a Level 5 felony if:
- 2 (1) the person has a previous conviction of operating while
- 3 intoxicated causing death (IC 9-30-5-5); or
- 4 (2) the person has a previous conviction of operating while
- 5 intoxicated causing serious bodily injury (IC 9-30-5-4).
- 6 SECTION 2. IC 9-30-5-4, AS AMENDED BY P.L.63-2018,
- 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2019]: Sec. 4. (a) A person who causes serious bodily injury
- 9 to another person when operating a vehicle:
- 10 (1) with an alcohol concentration equivalent to at least
- 11 eight-hundredths (0.08) gram of alcohol per:
- 12 (A) one hundred (100) milliliters of the person's blood; or
- 13 (B) two hundred ten (210) liters of the person's breath;
- 14 (2) with a controlled substance listed in schedule I or II of
- 15 IC 35-48-2 or its metabolite in the person's body; or
- 16 (3) while intoxicated;
- 17 commits a Level 6 felony. However, the offense is a Level 5 felony if
- 18 the person has a previous conviction of operating while intoxicated
- 19 within the ~~five (5)~~ **seven (7)** years preceding the commission of the
- 20 offense.
- 21 (b) A person who violates subsection (a) commits a separate offense
- 22 for each person whose serious bodily injury is caused by the violation
- 23 of subsection (a).
- 24 (c) It is a defense under subsection (a)(2) that the accused person
- 25 consumed the controlled substance in accordance with a valid
- 26 prescription or order of a practitioner (as defined in IC 35-48-1) who
- 27 acted in the course of the practitioner's professional practice.
- 28 SECTION 3. IC 35-43-4-2, AS AMENDED BY P.L.176-2018,
- 29 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2019]: Sec. 2. (a) A person who knowingly or intentionally
- 31 exerts unauthorized control over property of another person, with intent
- 32 to deprive the other person of any part of its value or use, commits
- 33 theft, a Class A misdemeanor. However, the offense is:
- 34 (1) a Level 6 felony if:
- 35 (A) the value of the property is at least seven hundred fifty
- 36 dollars (\$750) and less than fifty thousand dollars (\$50,000);
- 37 (B) the property is a:
- 38 (i) firearm;
- 39 (ii) motor vehicle (as defined in IC 9-13-2-105(a)); or
- 40 (iii) component part (as defined in IC 9-13-2-34) of a motor
- 41 vehicle; or
- 42 (C) the person has a prior unrelated conviction for:



- 1 (i) theft under this section **that occurred within the**
 2 **previous ten (10) years; or**
 3 (ii) criminal conversion under section 3 of this chapter **that**
 4 **occurred within the previous ten (10) years; and**
 5 (2) a Level 5 felony if:
 6 (A) the value of the property is at least fifty thousand dollars
 7 (\$50,000);
 8 (B) the property that is the subject of the theft is a valuable
 9 metal (as defined in IC 25-37.5-1-1) and:
 10 (i) relates to transportation safety;
 11 (ii) relates to public safety; or
 12 (iii) is taken from a hospital or other health care facility,
 13 telecommunications provider, public utility (as defined in
 14 IC 32-24-1-5.9(a)), or key facility;
 15 and the absence of the property creates a substantial risk of
 16 bodily injury to a person; or
 17 (C) the property is a:
 18 (i) motor vehicle (as defined in IC 9-13-2-105(a)); or
 19 (ii) component part (as defined in IC 9-13-2-34) of a motor
 20 vehicle; and
 21 the person has a prior unrelated conviction for theft of a motor
 22 vehicle (as defined in IC 9-13-2-105(a)) or theft of a
 23 component part (as defined in IC 9-13-2-34).
 24 (b) For purposes of this section, "the value of property" means:
 25 (1) the fair market value of the property at the time and place the
 26 offense was committed; or
 27 (2) if the fair market value of the property cannot be satisfactorily
 28 determined, the cost to replace the property within a reasonable
 29 time after the offense was committed.
 30 A price tag or price marking on property displayed or offered for sale
 31 constitutes prima facie evidence of the value of the property.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 163, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 163 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 8, Nays 1

