

PROPOSED AMENDMENT

SB 240 # 1

DIGEST

Resisting law enforcement. Increases the penalty for resisting law enforcement to a Level 5 felony if a person operates a vehicle in a manner that creates a substantial risk of bodily injury to another person.

- 1 Page 8, between lines 20 and 21, begin a new paragraph and insert:
2 "SECTION 4. IC 35-44.1-3-1, AS AMENDED BY P.L.174-2021,
3 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2024]: Sec. 1. (a) A person who knowingly or intentionally:
5 (1) forcibly resists, obstructs, or interferes with a law enforcement
6 officer or a person assisting the officer while the officer is
7 lawfully engaged in the execution of the officer's duties;
8 (2) forcibly resists, obstructs, or interferes with the authorized
9 service or execution of a civil or criminal process or order of a
10 court; or
11 (3) flees from a law enforcement officer after the officer has, by
12 visible or audible means, including operation of the law
13 enforcement officer's siren or emergency lights, identified himself
14 or herself and ordered the person to stop;
15 commits resisting law enforcement, a Class A misdemeanor, except as
16 provided in subsection (c).
17 (b) A person who, having been denied entry by a firefighter, an
18 emergency medical services provider, or a law enforcement officer,
19 knowingly or intentionally enters an area that is marked off with barrier
20 tape or other physical barriers, commits interfering with public safety,
21 a Class B misdemeanor, except as provided in subsection (c) or (k).
22 (c) The offense under subsection (a) or (b) is a:
23 (1) Level 6 felony if:
24 (A) the person uses a vehicle to commit the offense; or
25 (B) while committing the offense, the person:
26 (i) draws or uses a deadly weapon; **or**
27 (ii) inflicts bodily injury on or otherwise causes bodily injury

- 1 to another person. ~~or~~
- 2 ~~(iii) operates a vehicle in a manner that creates a substantial~~
- 3 ~~risk of bodily injury to another person;~~
- 4 (2) Level 5 felony if:
- 5 (A) while committing the offense, the person operates a
- 6 vehicle in a manner that:
- 7 (i) causes serious bodily injury to another person; or
- 8 **(ii) creates a substantial risk of bodily injury to another**
- 9 **person; or**
- 10 (B) the person uses a vehicle to commit the offense and the
- 11 person has a prior unrelated conviction under this section
- 12 involving the use of a vehicle in the commission of the
- 13 offense;
- 14 (3) Level 3 felony if, while committing the offense, the person
- 15 operates a vehicle in a manner that causes the death or
- 16 catastrophic injury of another person; and
- 17 (4) Level 2 felony if, while committing any offense described in
- 18 subsection (a), the person operates a vehicle in a manner that
- 19 causes the death or catastrophic injury of a firefighter, an
- 20 emergency medical services provider, or a law enforcement
- 21 officer while the firefighter, emergency medical services provider,
- 22 or law enforcement officer is engaged in the firefighter's,
- 23 emergency medical services provider's, or officer's official duties.
- 24 (d) The offense under subsection (a) is a Level 6 felony if, while
- 25 committing an offense under:
- 26 (1) subsection (a)(1) or (a)(2), the person:
- 27 (A) creates a substantial risk of bodily injury to the person or
- 28 another person; and
- 29 (B) has two (2) or more prior unrelated convictions under
- 30 subsection (a); or
- 31 (2) subsection (a)(3), the person has two (2) or more prior
- 32 unrelated convictions under subsection (a).
- 33 (e) If a person uses a vehicle to commit a felony offense under
- 34 subsection (c)(1)(B), (c)(2), (c)(3), or (c)(4), as part of the criminal
- 35 penalty imposed for the offense, the court shall impose a minimum
- 36 executed sentence of at least:
- 37 (1) thirty (30) days, if the person does not have a prior unrelated
- 38 conviction under this section;
- 39 (2) one hundred eighty (180) days, if the person has one (1) prior
- 40 unrelated conviction under this section; or

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

3 (f) Notwithstanding IC 35-50-2-2.2 and IC 35-50-3-1, the mandatory
4 minimum sentence imposed under subsection (e) may not be
5 suspended.

6 (g) If a person is convicted of an offense involving the use of a
7 motor vehicle under:

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

10 (2) subsection (c)(2); or

11 (3) subsection (c)(3);

12 the court may notify the bureau of motor vehicles to suspend or revoke
13 the person's driver's license and all certificates of registration and
14 license plates issued or registered in the person's name in accordance
15 with IC 9-30-4-6.1(b) for the period described in IC 9-30-4-6.1(d)(1)
16 or IC 9-30-4-6.1(d)(2). The court shall inform the bureau whether the
17 person has been sentenced to a term of incarceration. At the time of
18 conviction, the court may obtain the person's current driver's license
19 and return the license to the bureau of motor vehicles.

20 (h) A person may not be charged or convicted of a crime under
21 subsection (a)(3) if the law enforcement officer is a school resource
22 officer acting in the officer's capacity as a school resource officer.

23 (i) A person who commits an offense described in subsection (c)
24 commits a separate offense for each person whose bodily injury,
25 serious bodily injury, catastrophic injury, or death is caused by a
26 violation of subsection (c).

27 (j) A court may order terms of imprisonment imposed on a person
28 convicted of more than one (1) offense described in subsection (c) to
29 run consecutively. Consecutive terms of imprisonment imposed under
30 this subsection are not subject to the sentencing restrictions set forth in
31 IC 35-50-1-2(c) through IC 35-50-1-2(d).

32 (k) As used in this subsection, "family member" means a child,
33 grandchild, parent, grandparent, or spouse of the person. It is a defense
34 to a prosecution under subsection (b) that the person reasonably
35 believed that the person's family member:

36 (1) was in the marked off area; and

37 (2) had suffered bodily injury or was at risk of suffering bodily
38 injury;

39 if the person is not charged as a defendant in connection with the
40 offense, if applicable, that caused the area to be secured by barrier tape

- 1 or other physical barriers."
- 2 Renumber all SECTIONS consecutively.
(Reference is to SB 240 as introduced.)