

HOUSE BILL No. 1269

DIGEST OF INTRODUCED BILL

Citations Affected: IC 1-1-5.5-21; IC 35-38-2.6-1; IC 35-48-4-6.1.

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. Removes the "valid prescription" defense to the crime of possession of methamphetamine.

Effective: July 1, 2014.

**Steuerwald, McMillin, Pierce,
Lawson L**

January 14, 2014, read first time and referred to Committee on Courts and Criminal Code.



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.

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



1 subsection (b), this chapter applies to the sentencing of a person
 2 convicted of a **nonsuspendible offense**.

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

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

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

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

13 ~~(i) work release program; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (K) Dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the
 38 court finds the person possessed a firearm (as defined in
 39 IC 35-47-1-5) at the time of the offense, or the person
 40 delivered or intended to deliver to a person under eighteen
 41 (18) years of age at least three (3) years junior to the person
 42 and was on a school bus or within five hundred (500) feet of:



- 1 (i) school property; or
 2 (ii) a public park.
 3 (L) Dealing in methamphetamine (IC 35-48-4-1.1) if the court
 4 finds the person possessed a firearm (as defined in
 5 IC 35-47-1-5) at the time of the offense, or the person
 6 delivered or intended to deliver the methamphetamine pure or
 7 adulterated to a person under eighteen (18) years of age at
 8 least three (3) years junior to the person and was on a school
 9 bus or within five hundred (500) feet of:
 10 (i) school property; or
 11 (ii) a public park.
 12 (M) Dealing in a schedule I, II, or III controlled substance
 13 (IC 35-48-4-2) if the court finds the person possessed a firearm
 14 (as defined in IC 35-47-1-5) at the time of the offense, or the
 15 person delivered or intended to deliver to a person under
 16 eighteen (18) years of age at least three (3) years junior to the
 17 person and was on a school bus or within five hundred (500)
 18 feet of:
 19 (i) school property; or
 20 (ii) a public park.
 21 (N) An offense under IC 9-30-5 (operating a vehicle while
 22 intoxicated) and the person who committed the offense has
 23 accumulated at least two (2) prior unrelated convictions under
 24 IC 9-30-5.
 25 (O) An offense under IC 9-30-5-5(b) (operating a vehicle
 26 while intoxicated causing death).
 27 (P) Aggravated battery (IC 35-42-2-1.5).
 28 (Q) Disarming a law enforcement officer (IC 35-44.1-3-2).
 29 (3) An offense under IC 9-30-5-4.
 30 (4) An offense under IC 9-30-5-5.
 31 SECTION 3. IC 35-48-4-6.1, AS AMENDED BY P.L.158-2013,
 32 SECTION 632, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2014]: Sec. 6.1. (a) A person who ~~without a~~
 34 ~~valid prescription or order of a practitioner acting in the course of the~~
 35 ~~practitioner's professional practice~~, knowingly or intentionally
 36 possesses methamphetamine (pure or adulterated) commits possession
 37 of methamphetamine, a Level 6 felony, except as provided in
 38 subsections (b) through (d).
 39 (b) The offense is a Level 5 felony if:
 40 (1) the amount of the drug involved is at least three (3) but less
 41 than ten (10) grams; or
 42 (2) the amount of the drug involved is less than three (3) grams



- 1 and an enhancing circumstance applies.
- 2 (c) The offense is a Level 4 felony if:
- 3 (1) the amount of the drug involved is at least ten (10) but less
- 4 than twenty-eight (28) grams; or
- 5 (2) the amount of the drug involved is at least three (3) but less
- 6 than ten (10) grams and an enhancing circumstance applies.
- 7 (d) The offense is a Level 3 felony if:
- 8 (1) the amount of the drug involved is more than twenty-eight
- 9 (28) grams; or
- 10 (2) the amount of the drug involved is at least ten (10) but less
- 11 than twenty-eight (28) grams and an enhancing circumstance
- 12 applies.

