

HOUSE BILL No. 1430

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-5-15; IC 35-50-5-4; IC 36-2-13.

Synopsis: Criminal penalties and incarceration costs. Requires a court to imprison a person for at least 60 days if the person commits certain drunken driving offenses while the person's driving privileges are suspended under the drunken driving laws. Requires an inmate not under DOC custody to pay county jail incarceration costs and requires counties to establish a prisoner reimbursement fund. Repeals conflicting provisions concerning prisoner reimbursement.

Effective: July 1, 2004.

Stutzman, Thompson

January 20, 2004, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 113th General Assembly (2004)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1430



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 9-30-5-15, AS AMENDED BY P.L.32-2000,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 15. (a) In addition to any criminal penalty
4 imposed for an offense under this chapter, the court shall:
5 (1) order:
6 (A) that the person be imprisoned for at least five (5) days; or
7 (B) the person to perform at least thirty (30) days of
8 community restitution or service; and
9 (2) order the person to receive an assessment of the person's
10 degree of alcohol and drug abuse and, if appropriate, to
11 successfully complete an alcohol or drug abuse treatment
12 program, including an alcohol deterrent program if the person
13 suffers from alcohol abuse;
14 if the person has one (1) previous conviction of operating while
15 intoxicated.
16 (b) In addition to any criminal penalty imposed for an offense under
17 this chapter, the court shall:



1 (1) order:
 2 (A) that the person be imprisoned for at least ten (10) days; or
 3 (B) the person to perform at least sixty (60) days of community
 4 restitution or service; and
 5 (2) order the person to receive an assessment of the person's
 6 degree of alcohol and drug abuse and, if appropriate, to
 7 successfully complete an alcohol or drug abuse treatment
 8 program, including an alcohol deterrent program if the person
 9 suffers from alcohol abuse;
 10 if the person has at least two (2) previous convictions of operating
 11 while intoxicated.

12 (c) **In addition to any criminal penalty imposed on a person for**
 13 **a Class A misdemeanor or a felony under this chapter, the court**
 14 **shall order that the person be imprisoned for at least sixty (60)**
 15 **days if the person's driving privileges were suspended under this**
 16 **chapter at the time the person committed the offense.**

17 (d) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence
 18 imposed under this section may not be suspended. The court may
 19 require that the person serve the term of imprisonment in an
 20 appropriate facility at whatever time or intervals (consecutive or
 21 intermittent) determined appropriate by the court. However:

- 22 (1) at least forty-eight (48) hours of the sentence must be served
- 23 consecutively; and
- 24 (2) the entire sentence must be served within six (6) months after
- 25 the date of sentencing.

26 ~~(d)~~ (e) Notwithstanding IC 35-50-6, a person does not earn credit
 27 time while serving a sentence imposed under this section.

28 SECTION 2. IC 35-50-5-4, AS AMENDED BY P.L.2-2002,
 29 SECTION 106, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) This section applies ~~only~~

- 31 ~~(1) if the county in which a criminal proceeding was filed adopts~~
- 32 ~~an ordinance under IC 36-2-13-15; and~~
- 33 ~~(2) to a person who is sentenced under this article for a felony or~~
- 34 ~~a misdemeanor.~~

35 (b) At the time the court imposes a sentence, the court ~~may~~ **shall**
 36 order the person to execute a reimbursement plan as directed by the
 37 court and make repayments under the plan to the county for the costs
 38 described in IC 36-2-13-15.

- 39 (c) The court shall fix an amount under this section that:
- 40 (1) may not exceed an amount the person can or will be able to
- 41 pay;
- 42 (2) does not harm the person's ability to reasonably be

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1 self-supporting or to reasonably support any dependent of the
 2 person; and
 3 (3) takes into consideration and gives priority to any other
 4 restitution, reparation, repayment, costs, fine, or child support
 5 obligations the person is required to pay.
 6 (d) When an order is issued under this section, the issuing court
 7 shall send a certified copy of the order to the clerk of the circuit court
 8 in the county where the felony or misdemeanor charge was filed. Upon
 9 receiving the order, the clerk shall enter and index the order in the
 10 circuit court judgment docket in the manner prescribed by
 11 IC 33-17-2-3.
 12 (e) An order under this section is not discharged:
 13 (1) by the completion of a sentence imposed for a felony or
 14 misdemeanor; or
 15 (2) by the liquidation of a person's estate by a receiver under
 16 IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, and
 17 IC 34-48-6 before their repeal).
 18 SECTION 3. IC 36-2-13-1, AS AMENDED BY P.L.1-2002,
 19 SECTION 156, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2004]: Sec. 1. ~~Except for sections 15.3 and 16.3~~
 21 ~~of this chapter~~; This chapter applies to all counties.
 22 SECTION 4. IC 36-2-13-15 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) As used in this
 24 section, "lawful detention" has the meaning set forth in IC 35-41-1-18.
 25 ~~(b) This section applies to a county only if the legislative body for~~
 26 ~~the county elects by ordinance to implement this section:~~
 27 ~~(c)~~ **(b) Except as provided in subsection (c),** a person who is:
 28 (1) sentenced ~~under this article~~ for a felony or a misdemeanor;
 29 (2) subject to lawful detention in a county jail for a period of more
 30 than seventy-two (72) hours;
 31 (3) not a member of a family that makes less than 150% of the
 32 federal income poverty level; and
 33 (4) not detained as a child subject to the jurisdiction of a juvenile
 34 court;
 35 shall reimburse the county for the costs described in subsection (d).
 36 **(c) Subsection (b) does not apply to a person who is:**
 37 **(1) under the custody of the department of correction; and**
 38 **(2) confined at a county jail.**
 39 (d) A person described in subsection ~~(c)~~ **(b)** shall reimburse the
 40 county for the sum of the following amounts:
 41 (1) The lesser of:
 42 (A) the per diem amount specified under subsection (e); or

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1 (B) thirty dollars (\$30);
 2 multiplied by each day or part of a day that the person is lawfully
 3 detained in a county jail or lawfully detained under IC 35-33-11-3
 4 for more than six (6) hours.
 5 (2) The direct cost of investigating whether the person is indigent.
 6 (3) The cost of collecting the amount for which the person is
 7 liable under this section.
 8 (e) The county fiscal body shall fix the per diem described in
 9 subsection (d)(1)(A) in an amount that is reasonably related to the
 10 average daily cost of housing a person in the county jail. If the county
 11 transfers the person to another county or the department of correction
 12 under IC 35-33-11-3, the per diem is equal to the per diem charged to
 13 the county under IC 35-33-11-5.
 14 (f) The county sheriff shall collect the amounts due from a person
 15 under this section. ~~in conformity with the procedures specified in the~~
 16 ~~ordinance adopted under subsection (b).~~ If the county sheriff does not
 17 collect the amount due to the county, the county attorney may collect
 18 the amount due.
 19 SECTION 5. IC 36-2-13-16 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) ~~If the county~~
 21 ~~legislative body adopts an ordinance electing~~ To implement section 15
 22 of this chapter, the county legislative body shall establish a
 23 nonreverting county prisoner reimbursement fund.
 24 (b) All amounts collected under section 15 of this chapter must be
 25 deposited in the county prisoner reimbursement fund.
 26 (c) Any amount earned from the investment of amounts in the fund
 27 becomes part of the fund.
 28 (d) Notwithstanding any other law, upon appropriation by the
 29 county fiscal body, amounts in the fund may be used by the county only
 30 for the operation, construction, repair, remodeling, enlarging, and
 31 equipment of:
 32 (1) a county jail; or
 33 (2) a juvenile detention center to be operated under IC 31-31-8 or
 34 IC 31-31-9.
 35 SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE
 36 JULY 1, 2004]: IC 36-2-13-15.3; IC 36-2-13-16.3.

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