

# SENATE BILL No. 66

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-14-1-9; IC 35-48-4-16.

**Synopsis:** Pregnancy and controlled substances. Provides that a person who knows or should reasonably know that the person is pregnant and knowingly or intentionally ingests cocaine, a narcotic drug, a controlled substance, or marijuana, hash oil, or hashish without a valid prescription or order, commits unlawful ingestion of a controlled substance, a Class D felony. Allows a prosecuting attorney to withhold prosecution against a person accused of unlawful ingestion of a controlled substance if: (1) the person agrees to conditions of a pretrial diversion program agreement that requires the person to undergo drug abuse treatment in an approved drug abuse treatment program; and (2) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending.

**Effective:** July 1, 1998.

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## Craycraft

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January 6, 1998, read first time and referred to Committee on Judiciary.

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Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

## SENATE BILL No. 66

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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 33-14-1-9 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1998]: **Sec. 9. (a) A prosecuting attorney may withhold**  
4 **prosecution against a person accused of violating IC 35-48-4-16 if:**  
5 (1) **the person agrees to conditions of a pretrial diversion**  
6 **program offered by the prosecuting attorney; and**  
7 (2) **the terms of the agreement are recorded in an instrument:**  
8 (A) **signed by the person and the prosecuting attorney; and**  
9 (B) **filed in the court in which the charge is pending.**  
10 (b) **A pretrial diversion program agreement under subsection (a)**  
11 **must include conditions that the person:**  
12 (1) **undergo drug abuse treatment in a drug abuse treatment**  
13 **program:**  
14 (A) **certified under IC 12-23-1-6; and**  
15 (B) **approved by the court;**  
16 (2) **report to the prosecuting attorney at reasonable times;**  
17 (3) **answer all reasonable inquiries by the prosecuting attorney;**



1           and  
 2           (4) promptly notify the prosecuting attorney of any change in  
 3           the person's address.

4           (c) If an opening is not available in a drug abuse treatment  
 5           program described in subsection (b)(1) at the time a person enters  
 6           into a pretrial diversion program agreement under this section, the  
 7           person must agree to enter a drug abuse treatment program as soon  
 8           as practicable.

9           (d) In addition to the conditions described in subsection (b), a  
 10          pretrial diversion program agreement under this section may  
 11          include other provisions reasonably related to a person's  
 12          rehabilitation if the conditions are approved by the court.

13          (e) If a person violates a term of a pretrial diversion program  
 14          agreement entered into under this section, the prosecuting attorney  
 15          may proceed with the person's prosecution under IC 35-48-4-16.

16          SECTION 2. IC 35-48-4-16 IS ADDED TO THE INDIANA CODE  
 17          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 18          1, 1998]: Sec. 16. A person:

19           (1) who:  
 20           (A) knows; or  
 21           (B) should reasonably know;  
 22           that the person is pregnant;  
 23           (2) who knowingly or intentionally ingests:  
 24           (A) cocaine;  
 25           (B) a narcotic drug;  
 26           (C) a controlled substance; or  
 27           (D) marijuana, hash oil, or hashish; and  
 28           (3) who does not possess a valid prescription or order that:  
 29           (A) is issued by a practitioner acting in the course of the  
 30           practitioner's professional practice; and  
 31           (B) specifies that the person may ingest:  
 32           (i) the cocaine;  
 33           (ii) the narcotic drug;  
 34           (iii) the controlled substance; or  
 35           (iv) the marijuana, hash oil, or hashish;  
 36          commits unlawful ingestion of a controlled substance, a Class D  
 37          felony.

38          SECTION 3. [EFFECTIVE JULY 1, 1998] IC 35-48-4-16, as added  
 39          by this act, applies to crimes committed after June 30, 1997.

