



January 25, 2000

HOUSE BILL No. 1305

DIGEST OF HB 1305 (Updated January 20, 2000 11:34 AM - DI 76)

Citations Affected: IC 34-28; IC 35-32.

Synopsis: Venue. Provides that if an infraction allegedly took place on a public highway that runs on and along a common boundary shared by two or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action. Provides that if a person commits a crime on a public highway that runs on and along a common boundary shared by at least two counties, the person's trial may be held in any county that shares the common boundary.

Effective: July 1, 2000.

**Richardson, Summers, Budak,
Cherry**

January 11, 2000, read first time and referred to Committee on Courts and Criminal Code.
January 24, 2000, reported — Do Pass.

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January 25, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1305

A BILL FOR AN ACT to amend the Indiana Code concerning venue.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-28-5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) An action to
3 enforce a statute defining an infraction shall be brought in the name of
4 the state of Indiana by the prosecuting attorney for the judicial circuit
5 in which the infraction allegedly took place. **However, if the**
6 **infraction allegedly took place on a public highway (as defined in**
7 **IC 9-25-2-4) that runs on and along a common boundary shared by**
8 **two (2) or more judicial circuits, a prosecuting attorney for any**
9 **judicial circuit sharing the common boundary may bring the**
10 **action.**

11 (b) An action to enforce an ordinance shall be brought in the name
12 of the municipal corporation. The municipal corporation need not
13 prove that it or the ordinance is valid unless validity is controverted by
14 affidavit.

15 (c) Actions under this chapter (or IC 34-4-32 before its repeal):

16 (1) shall be conducted in accordance with the Indiana Rules of
17 Trial Procedure; and

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1 (2) must be brought within two (2) years after the alleged conduct
2 or violation occurred.

3 (d) The plaintiff in an action under this chapter must prove the
4 commission of an infraction or ordinance violation by a preponderance
5 of the evidence.

6 (e) The complaint and summons described in IC 9-30-3-6 may be
7 used for any infraction or ordinance violation.

8 (f) The prosecuting attorney or the attorney for a municipal
9 corporation may establish a deferral program for deferring actions
10 brought under this section. Actions may be deferred under this section
11 if:

12 (1) the defendant in the action agrees to conditions of a deferral
13 program offered by the prosecuting attorney or the attorney for a
14 municipal corporation;

15 (2) the defendant in the action agrees to pay to the clerk of the
16 court an initial user's fee and monthly user's fee set by the
17 prosecuting attorney or the attorney for the municipal corporation
18 in accordance with IC 33-19-5-2(e);

19 (3) the terms of the agreement are recorded in an instrument
20 signed by the defendant and the prosecuting attorney or the
21 attorney for the municipal corporation;

22 (4) the defendant in the action agrees to pay court costs of
23 twenty-five dollars (\$25) to the clerk of court if the action
24 involves a moving traffic offense (as defined in IC 9-13-2-110);
25 and

26 (5) the agreement is filed in the court in which the action is
27 brought.

28 When a defendant complies with the terms of an agreement filed under
29 this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting
30 attorney or the attorney for the municipal corporation shall request the
31 court to dismiss the action. Upon receipt of a request to dismiss an
32 action under this subsection, the court shall dismiss the action. An
33 action dismissed under this subsection (or IC 34-4-32-1(f) before its
34 repeal) may not be refiled.

35 SECTION 2. IC 35-32-2-1 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) Criminal actions
37 shall be tried in the county where the offense was committed, except as
38 otherwise provided by law.

39 (b) If a person committing an offense upon the person of another is
40 located in one (1) county and his victim is located in another county at
41 the time of the commission of the offense, the trial may be in either of
42 the counties.



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1 (c) If the offense involves killing or causing the death of another
2 human being, the trial may be in the county in which the:

- 3 (1) cause of death is inflicted;
4 (2) death occurs; or
5 (3) victim's body is found.

6 (d) If an offense is committed in Indiana and it cannot readily be
7 determined in which county the offense was committed, trial may be in
8 any county in which an act was committed in furtherance of the
9 offense.

10 (e) If an offense is commenced outside Indiana and completed
11 within Indiana, the offender may be tried in any county where any act
12 in furtherance of the offense occurred.

13 (f) If an offense commenced inside Indiana is completed outside
14 Indiana, the offender shall be tried in any county where an act in
15 furtherance of the offense occurred.

16 (g) If an offense is committed on the portions of the Ohio or Wabash
17 Rivers where they form a part of the boundaries of this state, trial may
18 be had in the county that is adjacent to the river and whose boundaries,
19 if projected across the river, would include the place where the offense
20 was committed.

21 (h) If an offense is committed at a place which is on or near a
22 common boundary which is shared by two (2) or more counties and it
23 cannot be readily determined where the offense was committed, then
24 the trial may be had in any county sharing the common boundary.

25 **(i) If an offense is committed on a public highway (as defined in**
26 **IC 9-25-2-4) that runs on and along a common boundary shared by**
27 **two (2) or more counties, the trial may be held in any county**
28 **sharing the common boundary.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1305, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 10, nays 0.

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