
SENATE BILL No. 404

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47-2-23; IC 35-50-2.

Synopsis: Penalty for handgun offense. Raises the penalty for carrying a handgun without a license from a Class A misdemeanor to a Class C felony. Requires a court to sentence a person convicted of that offense to not less than a nonsuspendible fixed term of imprisonment of five years. Provides that a person who commits the offense may not receive a plea agreement (Under current law the offense is a Class C felony only if the offense is committed under certain statutorily prescribed circumstances.)

Effective: July 1, 2000.

Meeks R

January 10, 2000, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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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.

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SENATE BILL No. 404



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 35-47-2-23 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 23. (a) A person who
3 violates section 3, 4, 5, 14, 15, or 16 of this chapter commits a Class B
4 misdemeanor.

5 (b) A person who violates section 1, 7, 17, or 18 of this chapter
6 commits a Class C felony. **However, notwithstanding IC 35-50-2-6,**
7 **a person who commits an offense under section 1 of this chapter**
8 **shall be imprisoned for a fixed term of not less than five (5) years**
9 **and may not receive a plea agreement with respect to a conviction**
10 **for the offense. Notwithstanding IC 35-50-2-2(a), the court may not**
11 **suspend any part of the person's sentence except that part of the**
12 **sentence exceeding five (5) years. In addition, a person who is**
13 **convicted of an offense under section 1 of this chapter does not**
14 **earn credit time while serving a sentence imposed for the**
15 **conviction.**

16 (c) A person who violates section † of this chapter commits a Class
17 A misdemeanor. However, the offense is a Class E felony:



- 1 (1) if the offense is committed:
 2 (A) on or in school property;
 3 (B) within one thousand (1,000) feet of school property; or
 4 (C) on a school bus; or
 5 (2) if the person:
 6 (A) has a prior conviction of any offense under:
 7 (i) this subsection; or
 8 (ii) subsection (d); or
 9 (B) has been convicted of a felony within fifteen (15) years
 10 before the date of the offense.
 11 (d) (c) A person who violates section 22 of this chapter commits a
 12 Class A misdemeanor. However, the offense is a Class D felony if the
 13 person has a prior conviction of any offense under this subsection or
 14 subsection (e); or if the person has been convicted of a felony within
 15 fifteen (15) years before the date of the offense.
 16 SECTION 2. IC 35-50-2-2, AS AMENDED BY P.L.188-1999,
 17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2000]: Sec. 2. (a) The court may suspend any part of a
 19 sentence for a felony, except as provided in this section or in section
 20 2.1 of this chapter.
 21 (b) With respect to the following crimes listed in this subsection, the
 22 court may suspend only that part of the sentence that is in excess of the
 23 minimum sentence:
 24 (1) The crime committed was a Class A or Class B felony and the
 25 person has a prior unrelated felony conviction.
 26 (2) The crime committed was a Class C felony and less than seven
 27 (7) years have elapsed between the date the person was
 28 discharged from probation, imprisonment, or parole, whichever
 29 is later, for a prior unrelated felony conviction and the date the
 30 person committed the Class C felony for which the person is
 31 being sentenced.
 32 (3) The crime committed was a Class D felony and less than three
 33 (3) years have elapsed between the date the person was
 34 discharged from probation, imprisonment, or parole, whichever
 35 is later, for a prior unrelated felony conviction and the date the
 36 person committed the Class D felony for which the person is
 37 being sentenced. However, the court may suspend the minimum
 38 sentence for the crime only if the court orders home detention
 39 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
 40 sentence specified for the crime under this chapter.
 41 (4) The felony committed was:
 42 (A) murder (IC 35-42-1-1);



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- 1 (B) battery (IC 35-42-2-1) with a deadly weapon;
 2 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
 3 (D) kidnapping (IC 35-42-3-2);
 4 (E) confinement (IC 35-42-3-3) with a deadly weapon;
 5 (F) rape (IC 35-42-4-1) as a Class A felony;
 6 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
 7 felony;
 8 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
 9 felony;
 10 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
 11 with a deadly weapon;
 12 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
 13 injury;
 14 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
 15 or with a deadly weapon;
 16 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
 17 weapon;
 18 (M) escape (IC 35-44-3-5) with a deadly weapon;
 19 (N) rioting (IC 35-45-1-2) with a deadly weapon;
 20 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) as a
 21 Class A felony;
 22 (P) dealing in a schedule I, II, or III controlled substance
 23 (IC 35-48-4-2) if the amount of controlled substance involved
 24 has an aggregate weight of three (3) grams or more;
 25 (Q) an offense under IC 9-30-5 (operating a vehicle while
 26 intoxicated) and the person who committed the offense has
 27 accumulated at least two (2) prior unrelated convictions under
 28 IC 9-30-5; or
 29 (R) aggravated battery (IC 35-42-2-1.5).
 30 **(S) Carrying a handgun without a license (IC 35-47-2-1**
 31 **and IC 35-47-2-23).**

32 (c) Except as provided in subsection (e), whenever the court
 33 suspends a sentence for a felony, it shall place the person on probation
 34 under IC 35-38-2 for a fixed period to end not later than the date that
 35 the maximum sentence that may be imposed for the felony will expire.

36 (d) The minimum sentence for a person convicted of voluntary
 37 manslaughter may not be suspended unless the court finds at the
 38 sentencing hearing that the crime was not committed by means of a
 39 deadly weapon.

40 (e) Whenever the court suspends that part of an offender's (as
 41 defined in IC 5-2-12-4) sentence that is suspendible under subsection
 42 (b), the court shall place the offender on probation under IC 35-38-2 for



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1 not more than ten (10) years.

2 (f) An additional term of imprisonment imposed under
3 IC 35-50-2-11 may not be suspended.

4 (g) A term of imprisonment imposed under IC 35-47-10-6 or
5 IC 35-47-10-7 may not be suspended if the commission of the offense
6 was knowing or intentional.

7 (h) A term of imprisonment imposed for an offense under
8 IC 35-48-4-6(b)(1)(B) may not be suspended.

9 SECTION 3. IC 35-50-2-6 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) **Except as**
11 **provided in subsection (b) and IC 35-47-2-23(b)**, a person who
12 commits a Class C felony shall be imprisoned for a fixed term of four
13 (4) years, with not more than four (4) years added for aggravating
14 circumstances or not more than two (2) years subtracted for mitigating
15 circumstances. In addition, he may be fined not more than ten thousand
16 dollars (\$10,000).

17 (b) Notwithstanding subsection (a), if a person has committed
18 nonsupport of a child as a Class C felony under IC 35-46-1-5, upon
19 motion of the prosecuting attorney, the court may enter judgment of
20 conviction of a Class D felony under IC 35-46-1-5 and sentence the
21 person accordingly. The court shall enter in the record detailed reasons
22 for the court's action when the court enters a judgment of conviction of
23 a Class D felony under this subsection.

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