Adopted	Rejected

COMMITTEE REPORT

YES: 10
NO: 0

MR. SPEAKER:

Your Committee on **Courts and Criminal Code**, to which was referred Senate Bill 81, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

Page 1, line 8, delete "twenty-one (21)" and insert "**thirteen (13)**".
Page 1, delete line 17, begin a new line block indented and insert:
"**(3) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.**
(4) The executive director of the public defender council of Indiana or the executive director's designee.
(5) One (1) person who:
(A) has experience in administering probation programs; and
(B) is a member of the Probation Officers' Professional Association of Indiana;
appointed by the members of the association.
(6) One (1) circuit or superior court judge who exercises criminal or juvenile jurisdiction, appointed by the chief justice of the supreme court.
(7) The commissioner of the department of correction or the

commissioner's designee, who serves as a nonvoting member.".

Page 2 , delete lines 1 through 32.

Page 4, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 2. IC 9-24-15-4, AS AMENDED BY P.L.127-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A verified petition filed under section 2 of this chapter must be filed in the circuit court or superior court of the county in which the petitioner resides. However, if at the time the petition is filed:

(1) the petitioner is a defendant in a pending case concerning the commission of an offense described in IC 9-30-5;

(2) the petitioner is on probation after being convicted of committing an offense described in IC 9-30-5; ~~or~~

(3) the petitioner's driving privileges have been suspended under IC 35-48-4-15 after the petitioner was convicted of committing an offense described in IC 35-48-4-15(a); **or**

(4) the petitioner's driving privileges have been suspended in accordance with IC 9-30-4-6(b)(3) following the petitioner's conviction in Indiana for a felony;

the petition may be filed only in the circuit court or superior court in which the case is pending or the petitioner was convicted.

(b) The clerk of the court shall docket the verified petition in the name of the petitioner against the prosecuting attorney of the county.

(c) The prosecuting attorney shall appear in person or by deputy and be heard by the court on the petition.

(d) The bureau:

(1) serves as a recordkeeper; and

(2) is not a party;

in a proceeding under this chapter.

SECTION 3. IC 9-30-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Whenever the bureau suspends or revokes the current driver's license upon receiving a record of the conviction of a person for any offense under the motor vehicle laws not enumerated under subsection (b), the bureau may also suspend any of the certificates of registration and license plates issued for any motor vehicle registered in the name of the person so convicted. However, the bureau may not suspend the evidence of registration,

unless otherwise required by law, if the person has given or gives and maintains during the three (3) years following the date of suspension or revocation proof of financial responsibility in the future in the manner specified in this section.

(b) The bureau shall suspend or revoke without notice or hearing the current driver's license and all certificates of registration and license plates issued or registered in the name of a person who is convicted of any of the following:

(1) Manslaughter or reckless homicide resulting from the operation of a motor vehicle.

(2) Perjury or knowingly making a false affidavit to the department under this chapter or any other law requiring the registration of motor vehicles or regulating motor vehicle operation upon the highways.

(3) A felony under Indiana motor vehicle laws or felony in the commission of which a motor vehicle is used.

(4) Three (3) charges of criminal recklessness involving the use of a motor vehicle within the preceding twelve (12) months.

(5) Failure to stop and give information or assistance or failure to stop and disclose the person's identity at the scene of an accident that has resulted in death, personal injury, or property damage in excess of two hundred dollars ($200).

(6) Possession, distribution, manufacture, cultivation, transfer, use, or sale of a controlled substance or counterfeit substance, or attempting or conspiring to possess, distribute, manufacture, cultivate, transfer, use, or sell a controlled substance or counterfeit substance.

(c) The license of a person shall also be suspended upon conviction in another jurisdiction for any offense described in subsections (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5), except if property damage is less than two hundred dollars ($200), the bureau may determine whether the driver's license and certificates of registration and license plates shall be suspended or revoked. The license of a person shall also be suspended upon conviction in another jurisdiction for any offense described in subsection (b)(6).

(d) A suspension or revocation remains in effect and a new or renewal license may not be issued to the person and a motor vehicle may not be registered in the name of the person as follows:

(1) Except as provided in subdivisions (2), ~~and~~ (3), **(4), and (5),** for six (6) months from the date of conviction or on the date on which the person is otherwise eligible for a license, whichever is later. Except as provided in IC 35-48-4-15, this includes a person convicted of a crime for which the person's license is suspended or revoked under subsection (b)(6).

(2) Upon conviction of an offense described in subsection (b)(1), for a fixed period of not less than two (2) years and not more than five (5) years, to be fixed by the bureau based upon recommendation of the court entering a conviction. A new or reinstated license may not be issued to the person unless that person, within the three (3) years following the expiration of the suspension or revocation, gives and maintains in force at all times during the effective period of a new or reinstated license proof of financial responsibility in the future in the manner specified in this chapter. However, the liability of the insurance carrier under a motor vehicle liability policy that is furnished for proof of financial responsibility in the future as set out in this chapter becomes absolute whenever loss or damage covered by the policy occurs, and the satisfaction by the insured of a final judgment for loss or damage is not a condition precedent to the right or obligation of the carrier to make payment on account of loss or damage, but the insurance carrier has the right to settle a claim covered by the policy. If the settlement is made in good faith, the amount shall be deductive from the limits of liability specified in the policy. A policy may not be canceled or annulled with respect to a loss or damage by an agreement between the carrier and the insured after the insured has become responsible for the loss or damage, and a cancellation or annulment is void. The policy may provide that the insured or any other person covered by the policy shall reimburse the insurance carrier for payment made on account of any loss or damage claim or suit involving a breach of the terms, provisions, or conditions of the policy. If the policy provides for limits in excess of the limits specified in this chapter, the insurance carrier may plead against any plaintiff, with respect to the amount of the excess limits of liability, any defenses that the carrier may be entitled to plead against the insured. The policy may further provide for prorating of the insurance with other

applicable valid and collectible insurance. An action does not lie against the insurance carrier by or on behalf of any claimant under the policy until a final judgment has been obtained after actual trial by or on behalf of any claimant under the policy.

(3) For the period ordered by a court under IC 35-48-4-15.

(4) If the person is convicted of a felony involving the use of a motor vehicle under IC 35-44-3-3(b) and the person:

(A) exceeded the speed limit by at least twenty (20) miles per hour;

(B) committed criminal recklessness with a vehicle (IC 35-42-2-2); or

(C) engaged in aggressive driving (as defined in IC 9-21-8-55(b);

while committing the felony, for one (1) year after the date the person was convicted, if the person was not sentenced to a term of incarceration, or for one (1) year after the date the person was released from incarceration, if the person was sentenced to a term of incarceration. The convicted person has the burden of applying for a new or renewal license and establishing that the one (1) year period described in this subdivision has elapsed.

(5) If the person is convicted of a felony involving the use of a motor vehicle under IC 35-44-3-3(b), the person:

(A) exceeded the speed limit by at least twenty (20) miles per hour;

(B) committed criminal recklessness with a vehicle (IC 35-42-2-2); or

(C) engaged in aggressive driving (as defined in IC 9-21-8-55(b);

while committing the felony, and the person has a prior unrelated conviction for a felony under IC 35-44-3-3(b), for two (2) years after the date the person was convicted, if the person was not sentenced to a term of incarceration, or for two (2) years after the date the person was released from incarceration, if the person was sentenced to a term of incarceration. The convicted person has the burden of applying for a new or renewal license and establishing that the two (2) year period described in this subdivision has

elapsed.

(e) The bureau may take action as required in this section upon receiving satisfactory evidence of a conviction of a person in another state.

(f) For the purpose of this chapter, "conviction" includes any of the following:

(1) A conviction upon a plea of guilty.

(2) A determination of guilt by a jury or court, even if:

(A) no sentence is imposed; or

(B) a sentence is suspended.

(3) A forfeiture of bail, bond, or collateral deposited to secure the defendant's appearance for trial, unless the forfeiture is vacated.

(4) A payment of money as a penalty or as costs in accordance with an agreement between a moving traffic violator and a traffic violations bureau.

(g) A suspension or revocation under this section or under IC 9-25-6-8 stands pending appeal of the conviction to a higher court and may be set aside or modified only upon the receipt by the bureau of the certificate of the court reversing or modifying the judgment that the cause has been reversed or modified. However, if the suspension or revocation follows a conviction in a court of no record in Indiana, the suspension or revocation is stayed pending appeal of the conviction to a court of record.

(h) A person aggrieved by an order or act of the bureau under this section or IC 9-25-6-8 may file a petition for a court review.

SECTION 4. IC 35-44-3-3, AS AMENDED BY P.L.143-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A person who knowingly or intentionally:

(1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;

(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or

(3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:

(1) Class D felony if:

(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or

(B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on or otherwise causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;

(2) Class C felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person; and

(3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person.

(c) For purposes of this section, a law enforcement officer includes an enforcement officer of the alcohol and tobacco commission and a conservation officer of the department of natural resources.

(d) If a person uses a vehicle to commit a felony offense under subsection (b)(1)(B), (b)(2), or (b)(3), as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

(1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;

(2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or

(3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (d) may not be suspended.

(f) If a person is convicted of an offense involving the use of a motor vehicle under subsection:

(1) (b)(1)(A), if the person exceeded the speed limit by at least twenty (20) miles per hour while committing the offense;

(2) (b)(2); or

(3) (b)(3);

the court may notify the bureau of motor vehicles to suspend or revoke the person's driver's license and all certificates of registration and license plates issued or registered in the person's name in accordance with IC 9-30-4-6(b)(3) for the period described in IC 9-30-4-6(d)(4) or IC 9-30-4-6(d)(5). The court shall inform the bureau whether the person has been sentenced to a term of incarceration. At the time of conviction, the court may obtain the person's current driver's license and return the license to the bureau of motor vehicles.".

Renumber all SECTIONS consecutively.

(Reference is to SB 81 as reprinted January 22, 2010.)

and when so amended that said bill do pass.

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Representative Pierce