
HOUSE BILL No. 1033

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-50-2.

Synopsis: Conversion of Class D felony to Class A misdemeanor. Permits a court to convert a Class D felony to a Class A misdemeanor if: (1) the person is not a sex or violent offender; (2) the offense was a non-violent offense; (3) at least three years have passed since the person completed the sentence; and (4) the person has not been convicted of a new felony. Specifies that a conviction for a Class A misdemeanor that was originally entered as a Class D felony and converted to a Class A misdemeanor under an express sentencing provision is treated as a Class A misdemeanor.

Effective: July 1, 2012.

McMillin

January 9, 2012, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1033



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 35-50-2-1 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) As used in this
- 3 chapter, "Class D felony conviction" means a conviction of a Class D
- 4 felony in Indiana and a conviction, in any other jurisdiction at any time,
- 5 with respect to which the convicted person might have been imprisoned
- 6 for more than one (1) year. However, it does not include a conviction
- 7 with respect to which the person has been pardoned, or a conviction of
- 8 a Class A misdemeanor **entered** under **IC 35-38-1-1.5** or section 7(b)
- 9 **or 7(c)** of this chapter.
- 10 (b) As used in this chapter, "felony conviction" means a conviction,
- 11 in any jurisdiction at any time, with respect to which the convicted
- 12 person might have been imprisoned for more than one (1) year.
- 13 However, it does not include a conviction with respect to which the
- 14 person has been pardoned, or a conviction of a Class A misdemeanor
- 15 under section 7(b) of this chapter.
- 16 (c) As used in this chapter, "minimum sentence" means:
- 17 (1) for murder, forty-five (45) years;



- 1 (2) for a Class A felony, twenty (20) years;
 2 (3) for a Class B felony, six (6) years;
 3 (4) for a Class C felony, two (2) years; and
 4 (5) for a Class D felony, one-half (1/2) year.
- 5 SECTION 2. IC 35-50-2-7, AS AMENDED BY P.L.71-2005,
 6 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2012]: Sec. 7. (a) A person who commits a Class D felony
 8 shall be imprisoned for a fixed term of between six (6) months and
 9 three (3) years, with the advisory sentence being one and one-half (1
 10 1/2) years. In addition, the person may be fined not more than ten
 11 thousand dollars (\$10,000).
- 12 (b) Notwithstanding subsection (a), if a person has committed a
 13 Class D felony, the court may enter judgment of conviction of a Class
 14 A misdemeanor and sentence accordingly. However, the court shall
 15 enter a judgment of conviction of a Class D felony if:
- 16 (1) the court finds that:
- 17 (A) the person has committed a prior, unrelated felony for
 18 which judgment was entered as a conviction of a Class A
 19 misdemeanor; and
 20 (B) the prior felony was committed less than three (3) years
 21 before the second felony was committed;
- 22 (2) the offense is domestic battery as a Class D felony under
 23 IC 35-42-2-1.3; or
 24 (3) the offense is possession of child pornography
 25 (IC 35-42-4-4(c)).
- 26 The court shall enter in the record, in detail, the reason for its action
 27 whenever it exercises the power to enter judgment of conviction of a
 28 Class A misdemeanor granted in this subsection.
- 29 **(c) Notwithstanding subsection (a), the sentencing court may
 30 convert a Class D felony conviction to a Class A misdemeanor
 31 conviction if, after a hearing of which the prosecuting attorney has
 32 been notified, the court makes the following findings:**
- 33 **(1) The person is not a sex or violent offender (as defined in
 34 IC 11-8-8-5).**
- 35 **(2) The person was not convicted of a Class D felony that
 36 resulted in bodily injury to another person.**
- 37 **(3) At least three (3) years have passed since the person:**
- 38 **(A) completed the person's sentence; and**
 39 **(B) satisfied any other obligation imposed on the person as
 40 part of the sentence;**
 41 **for the Class D felony.**
- 42 **(4) The person has not been convicted of a felony since the**

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1 **person:**
2 **(A) completed the person's sentence; and**
3 **(B) satisfied any other obligation imposed on the person as**
4 **part of the sentence;**
5 **for the Class D felony.**

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