

SENATE BILL No. 331

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-1-1.5; IC 35-50-2-7.

Synopsis: Cause numbers. Provides that if: (1) a court converts a person's Class D felony conviction to a Class A misdemeanor; and (2) the person has no other felony convictions filed under the same cause number; the court shall enter a new cause number for the proceeding that designates it as a misdemeanor case and not as a felony case. Makes technical corrections.

Effective: July 1, 2013.

Kruse

January 8, 2013, read first time and referred to Committee on Corrections & Criminal Law.

C
O
P
Y



First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 331



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 35-38-1-1.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.5. (a) A court may
3 enter judgment of conviction as a Class D felony with the express
4 provision that the conviction will be converted to a conviction as a
5 Class A misdemeanor within three (3) years if the person fulfills certain
6 conditions. A court may enter a judgment of conviction as a Class D
7 felony with the express provision that the conviction will be converted
8 to a conviction as a Class A misdemeanor only if the person pleads
9 guilty to a Class D felony that qualifies for consideration as a Class A
10 misdemeanor under IC 35-50-2-7, and the following conditions are
11 met:

- 12 (1) The prosecuting attorney consents.
- 13 (2) The person agrees to the conditions set by the court.
- 14 (b) For a judgment of conviction to be entered under subsection (a),
- 15 the court, the prosecuting attorney, and the person must all agree to the
- 16 conditions set by the court under subsection (a).
- 17 (c) The court is not required to convert a judgment of conviction



1 entered as a Class D felony to a Class A misdemeanor if, after a
2 hearing, the court finds:

- 3 (1) the person has violated a condition set by the court under
4 subsection (a); or
5 (2) the period that the conditions set by the court under subsection
6 (a) are in effect expires before the person successfully completes
7 each condition.

8 However, the court may not convert a judgment of conviction entered
9 as a Class D felony to a Class A misdemeanor if the person commits a
10 new offense before the conditions set by the court under subsection (a)
11 expire.

12 (d) The court shall enter judgment of conviction as a Class A
13 misdemeanor if the person fulfills the conditions set by the court under
14 subsection (a).

15 (e) The entry of a judgment of conviction under this section does not
16 affect the application of any statute requiring the suspension of a
17 person's driving privileges.

18 (f) This section may not be construed to diminish or alter the rights
19 of a victim (as defined in IC 35-40-4-8) in a sentencing proceeding
20 under this chapter.

21 **(g) If:**

- 22 **(1) a court converts a person's Class D felony conviction to a**
23 **Class A misdemeanor conviction under this section; and**
24 **(2) the person had no other felony convictions filed under the**
25 **same cause number;**

26 **the court shall enter a new cause number for the proceeding that**
27 **designates it as a criminal misdemeanor case and not as a felony**
28 **case.**

29 SECTION 2. IC 35-50-2-7, AS AMENDED BY P.L.69-2012,
30 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2013]: Sec. 7. (a) A person who commits a Class D felony
32 shall be imprisoned for a fixed term of between six (6) months and
33 three (3) years, with the advisory sentence being one and one-half (1
34 1/2) years. In addition, the person may be fined not more than ten
35 thousand dollars (\$10,000).

36 (b) Notwithstanding subsection (a), if a person has committed a
37 Class D felony, the court may enter judgment of conviction of a Class
38 A misdemeanor and sentence accordingly. However, the court shall
39 enter a judgment of conviction of a Class D felony if:

40 (1) the court finds that:

- 41 (A) the person has committed a prior, unrelated felony for
42 which judgment was entered as a conviction of a Class A

C
o
p
y



- 1 misdemeanor; and
 2 (B) the prior felony was committed less than three (3) years
 3 before the second felony was committed;
 4 (2) the offense is domestic battery as a Class D felony under
 5 IC 35-42-2-1.3; or
 6 (3) the offense is possession of child pornography
 7 (IC 35-42-4-4(c)).
- 8 The court shall enter in the record, in detail, the reason for its action
 9 whenever it exercises the power to enter judgment of conviction of a
 10 Class A misdemeanor granted in this subsection.
- 11 (c) Notwithstanding subsection (a), the sentencing court may
 12 convert a Class D felony conviction to a Class A misdemeanor
 13 conviction if, after receiving a verified petition as described in
 14 subsection (d) and after conducting a hearing of which the prosecuting
 15 attorney has been notified, the court makes the following findings:
- 16 (1) The person is not a sex or violent offender (as defined in
 17 IC 11-8-8-5).
 18 (2) The person was not convicted of a Class D felony that resulted
 19 in bodily injury to another person.
 20 (3) The person has not been convicted of perjury under
 21 ~~IC 35-44-2-1~~ **IC 35-44.1-2-1** or official misconduct under
 22 ~~IC 35-44-1-2~~ **IC 35-44.1-1-1**.
 23 (4) At least three (3) years have passed since the person:
 24 (A) completed the person's sentence; and
 25 (B) satisfied any other obligation imposed on the person as
 26 part of the sentence;
 27 for the Class D felony.
 28 (5) The person has not been convicted of a felony since the
 29 person:
 30 (A) completed the person's sentence; and
 31 (B) satisfied any other obligation imposed on the person as
 32 part of the sentence;
 33 for the Class D felony.
 34 (6) No criminal charges are pending against the person.
- 35 (d) A petition filed under subsection (c) must be verified and set
 36 forth:
 37 (1) the crime the person has been convicted of;
 38 (2) the date of the conviction;
 39 (3) the date the person completed the person's sentence;
 40 (4) any obligations imposed on the person as part of the sentence;
 41 (5) the date the obligations were satisfied; and
 42 (6) a verified statement that there are no criminal charges pending

C
o
p
y



1 against the person.
2 (e) If a person whose Class D felony conviction has been converted
3 to a Class A misdemeanor conviction under subsection (c) is convicted
4 of a felony within five (5) years after the conversion under subsection
5 (c), a prosecuting attorney may petition a court to convert the person's
6 Class A misdemeanor conviction back to a Class D felony conviction.
7 **(f) If:**
8 **(1) a court converts a person's Class D felony conviction to a**
9 **Class A misdemeanor conviction under this section; and**
10 **(2) the person has no other felony convictions filed under the**
11 **same cause number;**
12 **the court shall enter a new cause number for the proceeding that**
13 **designates it as a criminal misdemeanor case and not as a felony**
14 **case.**

C
o
p
y

