
HOUSE BILL No. 1517

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-24-15; IC 9-30; IC 12-23-5-5.

Synopsis: Ignition interlock devices. Changes the conditions under which a court is required to grant a hardship license with restricted driving privileges. Restricts a person to operating only vehicles with a functioning and certified ignition interlock device in certain situations. Provides that if a court has granted a person restricted driving privileges for a restricted driver's license because of hardship, the person has violated the restrictions, and the bureau of motor vehicles (BMV) determines that the person has a functioning certified ignition interlock device installed in the vehicles the person expects to operate, the bureau may extend the suspension of the person's driving privileges and ignition interlock restrictions. Provides that if a person operates a vehicle in violation of a probationary license, the BMV may extend the suspension of the person's driving privileges and ignition interlock restrictions. Provides that a court may grant a person under 21 years of age who operated a vehicle with a certain blood alcohol concentration probationary driving privileges restricting the person to operating only vehicles equipped with ignition interlock devices. Provides that a court may grant a person convicted of operating a motorboat while intoxicated probationary driving privileges restricting the person to operating only vehicles equipped with an ignition interlock device. Provides that if a court grants a person certain probationary driving privileges, the person may operate only a vehicle with an ignition interlock device. Changes the notice that must be provided to a person whose driving privileges are suspended for refusal to submit to a chemical test. Provides that if a person whose driving privileges have been suspended files an application for an issuance of an ignition interlock probationary license, the person waives the right to a
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Effective: July 1, 2013.

Kirchhofer

January 22, 2013, read first time and referred to Committee on Courts and Criminal Code.



Digest Continued

judicial hearing. Provides that certain ignition interlock restrictions remain in effect until the BMV receives a notification from the ignition interlock vendor that certain incidents have not occurred. Creates the ignition interlock assistance fund to be administered by the BMV, to assist indigent persons in meeting ignition interlock device expenses. Requires an ignition interlock device vendor to collect a \$20 monthly user fee and to forward this fee to the BMV to fund the ignition interlock assistance fund. Changes certain driver's license suspension periods.

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Introduced

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.

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HOUSE BILL No. 1517

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

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

1 SECTION 1. IC 9-24-15-6.5, AS AMENDED BY P.L.125-2012,
 2 SECTION 220, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2013]: Sec. 6.5. (a) The court shall grant a
 4 petition for restricted driving privileges filed under this chapter if ~~all~~
 5 ~~of the following conditions exist:~~
 6 ~~(1)~~ the person **is otherwise eligible and** was not convicted of one
 7 (1) or more of the following:
 8 ~~(A)~~ **(1)** A Class D felony under IC 9-30-5-4 before July 1, 1996,
 9 or a Class D felony or a Class C felony under IC 9-30-5-4 after
 10 June 30, 1996.
 11 ~~(B)~~ **(2)** A Class C felony under IC 9-30-5-5 before July 1, 1996,
 12 or a Class C felony or a Class B felony under IC 9-30-5-5 after
 13 June 30, 1996.
 14 ~~(2)~~ The person's driving privileges were suspended under
 15 ~~IC 9-30-6-9(c) or IC 35-48-4-15.~~



1 (3) The driving that was the basis of the suspension was not in
2 connection with the person's work.

3 (4) The person does not have a previous conviction for operating
4 while intoxicated.

5 (5) The person is participating in a rehabilitation program
6 certified by either the division of mental health and addiction or
7 the Indiana judicial center.

8 (b) The person filing the petition for restricted driving privileges
9 shall include in the petition the information specified in subsection (a)
10 in addition to the information required by sections 3 through 4 of this
11 chapter.

12 (c) Whenever the court grants a person restricted driving privileges
13 under this chapter, that part of the court's order granting probationary
14 driving privileges shall: ~~not take effect until the person's driving~~
15 ~~privileges have been suspended for at least thirty (30) days under~~
16 ~~IC 9-30-6-9. In a county that provides for~~

17 (1) **require** the installation of an ignition interlock device under
18 IC 9-30-8; ~~installation of an~~ **and**

19 (2) **restrict the person to operating only a vehicle with a**
20 **functioning certified** ignition interlock device **is required as a**
21 **condition of probationary driving privileges** for the entire duration
22 of the probationary driving privileges.

23 (d) If a court requires installation of a **functioning** certified ignition
24 interlock device under subsection (c), the court shall order the bureau
25 to record this requirement in the person's driving record in accordance
26 with IC 9-14-3-7. When the person is no longer ~~required~~ **restricted** to
27 ~~operate~~ **operating** only a motor vehicle equipped with ~~an~~ **a**
28 **functioning certified** ignition interlock device, the court shall notify
29 the bureau that the ignition interlock use requirement has expired and
30 order the bureau to update its records accordingly.

31 SECTION 2. IC 9-24-15-11, AS AMENDED BY P.L.125-2012,
32 SECTION 225, IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) A person who:

34 (1) has been granted restricted driving privileges; and

35 (2) operates a motor vehicle:

36 (A) in violation of the terms, limitations, or restrictions set out
37 by the court; and

38 (B) during the period of suspension of the person's current
39 driving license;

40 commits a Class B misdemeanor.

41 (b) **Except as provided in subsection (c),** the bureau shall, upon
42 receipt of notice of a conviction ~~for a violation of this section, of an~~

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offense under subsection (a), do the following:

- (1) Revoke the person's restricted driving privileges.
- (2) Suspend the person's current driving license for two (2) years in addition to the original existing period of suspension.

In addition, the bureau may not issue restricted driving privileges to the person during the original existing or additional period of suspension.

(c) If:

- (1) a court has granted a person restricted driving privileges under section 6.5(c) of this chapter;**
- (2) the bureau has determined that the person has a functioning certified ignition interlock device installed in the vehicles that the person expects to operate; and**
- (3) the person is convicted of an offense under subsection (a);**

the bureau may extend the suspension of the person's driving privileges for an additional period and extend the restriction allowing the person to operate only a vehicle with a functioning certified ignition interlock device throughout the additional period of suspension of the person's driving privileges.

SECTION 3. IC 9-30-5-6, AS AMENDED BY P.L.125-2012, SECTION 337, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) A person who operates a vehicle in violation of any term of a probationary license issued under this chapter, IC 9-30-6, or IC 9-30-9 commits a Class C infraction.

(b) In addition to any other penalty imposed under this section, the court may:

- (1) suspend the person's driving privileges for a period of not more than one (1) year; or**
- (2) if a court has granted a person restricted driving privileges under IC 9-24-15-6.5 and the bureau has determined that the person has a functioning, certified ignition interlock device installed in the vehicles the person expects to operate, the bureau may:**
 - (A) extend any previous suspension of the person's driving privileges under this chapter, IC 9-30-6, or IC 9-30-9 for not more than one (1) additional year; and**
 - (B) extend the restriction under which the person may operate only a vehicle with a functioning certified ignition interlock device throughout the period of the previous suspension of the person's driving privileges and the extended period of suspension imposed under clause (A).**

SECTION 4. IC 9-30-5-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8.5. (a) A person who:

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1 (1) is less than twenty-one (21) years of age; and
 2 (2) operates a vehicle with an alcohol concentration equivalent to
 3 at least two-hundredths (0.02) gram but less than
 4 eight-hundredths (0.08) gram of alcohol per:
 5 (A) one hundred (100) milliliters of the person's blood; or
 6 (B) two hundred ten (210) liters of the person's breath;
 7 commits a Class C infraction.

8 (b) In addition to the penalty imposed under this section, the court
 9 may recommend the suspension of the driving privileges of ~~the~~
 10 ~~operator of the vehicle~~ **a person who commits an infraction under**
 11 **subsection (a)** for not more than one (1) year.

12 **(c) If the court recommends the suspension of the driving**
 13 **privileges of a person under subsection (b), the court may also**
 14 **grant the person probationary driving privileges that restrict the**
 15 **person to operating only vehicles equipped with a functioning,**
 16 **certified interlock device under IC 9-30-8 during the period of**
 17 **suspension.**

18 SECTION 5. IC 9-30-5-10, AS AMENDED BY P.L.125-2012,
 19 SECTION 339, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2013]: Sec. 10. (a) In addition to a criminal
 21 penalty imposed for an offense under this chapter, IC 35-46-9, or
 22 IC 14-15-8 (before its repeal), the court:

23 **(1) ~~shall~~, may,** after reviewing the person's bureau driving record
 24 and other relevant evidence, recommend the suspension of the
 25 person's driving privileges for the fixed period of time specified
 26 under this section; **and**

27 **(2) may grant the person probationary driving privileges**
 28 **restricting the person to operating only vehicles equipped**
 29 **with a functioning certified ignition interlock device under**
 30 **IC 9-30-8.**

31 **(b) If the court orders a suspension of driving privileges under**
 32 **subsection (a)(1), the court may require that a period of suspension**
 33 **recommended under this section be imposed, if applicable, before a**
 34 **period of incarceration or after a period of incarceration, or both before**
 35 **and after a period of incarceration, as long as the suspension otherwise**
 36 **complies with the periods established in this section. The court may**
 37 **also specify other restrictions on the person's driving, in addition**
 38 **to the ignition interlock device restriction under subsection (a)(2).**

39 **(c) If a court issues an order under subsection (a) or (b), the**
 40 **bureau may not add additional restrictions to a person's driving**
 41 **other than those that are imposed through the court's order or that**
 42 **were on the person's driving record in effect at the time the person**

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1 was arrested.

2 (d) A court may grant probationary driving privileges to a
3 person to whom this section applies without requiring the
4 installation of an ignition interlock device under subsection (a)(2)
5 if the person is:

6 (1) participating in a court supervised alcohol treatment
7 program; and

8 (2) taking disulfiram or a similar substance that the court
9 determines is effective in treating alcohol abuse.

10 A person granted probationary driving privileges under this
11 subsection shall pay all costs associated with the installation of an
12 ignition interlock device unless the sentencing court determines
13 that the person is indigent, as provided in IC 9-30-8-1.

14 (b) (e) If the court finds that the person:

15 (1) does not have a previous conviction of operating a vehicle or
16 a motorboat while intoxicated; or

17 (2) has a previous conviction of operating a vehicle or a
18 motorboat while intoxicated that occurred at least ten (10) years
19 before the conviction under consideration by the court;

20 the court shall recommend the suspension of the person's driving
21 privileges for at least ninety (90) days but not more than two (2) years.

22 (c) (f) If the court finds that the person has a previous conviction of
23 operating a vehicle or a motorboat while intoxicated and the previous
24 conviction occurred more than five (5) years but less than ten (10)
25 years before the conviction under consideration by the court, the court
26 shall recommend the suspension of the person's driving privileges for
27 at least one hundred eighty (180) days (1) year but not more than two
28 (2) years. The court may stay the execution of that part of the
29 suspension that exceeds the minimum period of suspension. and grant
30 the person probationary driving privileges for a period of time equal to
31 the length of the stay.

32 (d) (g) If the court finds that the person has a previous conviction of
33 operating a vehicle or a motorboat while intoxicated and the previous
34 conviction occurred less than five (5) years before the conviction under
35 consideration by the court, the court shall recommend the suspension
36 of the person's driving privileges for at least one (1) year but not more
37 than two (2) years. The court may stay the execution of that part of the
38 suspension that exceeds the minimum period of suspension. and grant
39 the person probationary driving privileges for a period of time equal to
40 the length of the stay. If the court grants probationary driving privileges
41 under this subsection, the court shall order that the probationary driving
42 privileges include the requirement that the person may not operate a

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1 motor vehicle unless the motor vehicle is equipped with a functioning
 2 certified ignition interlock device under IC 9-30-8. However, the court
 3 may grant probationary driving privileges under this subsection without
 4 requiring the installation of an ignition interlock device if the person is
 5 successfully participating in a court supervised alcohol treatment
 6 program in which the person is taking disulfiram or a similar substance
 7 that the court determines is effective in treating alcohol abuse. The
 8 person granted probationary driving privileges under this subsection
 9 shall pay all costs associated with the installation of an ignition
 10 interlock device unless the sentencing court determines that the person
 11 is indigent.

12 (e) (h) If the conviction under consideration by the court is for an
 13 offense under:

- 14 (1) section 4 of this chapter;
- 15 (2) section 5 of this chapter;
- 16 (3) IC 14-15-8-8(b) (before its repeal);
- 17 (4) IC 14-15-8-8(c) (before its repeal);
- 18 (5) IC 35-46-9-6(b); or
- 19 (6) IC 35-46-9-6(c);

20 the court shall recommend the suspension of the person's driving
 21 privileges for at least two (2) years but not more than five (5) years.

22 (f) (i) If the conviction under consideration by the court is for an
 23 offense involving the use of a controlled substance listed in schedule
 24 I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the
 25 offense, the court shall recommend the suspension or revocation of the
 26 person's driving privileges for at least six (6) months.

27 (g) (j) The bureau shall fix the period of suspension in accordance
 28 with the recommendation of the court under this section and in
 29 accordance with IC 9-30-6-9. If the court fails to recommend a fixed
 30 period of suspension, the bureau shall impose the minimum period of
 31 suspension required under this section.

32 SECTION 6. IC 9-30-5-11, AS AMENDED BY P.L.125-2012,
 33 SECTION 340, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) If a court grants a person
 35 probationary driving privileges under section 12 of this chapter, the
 36 person may operate a vehicle only as follows:

- 37 (1) ~~To and from the person's place of employment.~~
- 38 (2) ~~For specific purposes in exceptional circumstances.~~
- 39 (3) ~~To and from a court-ordered treatment program.~~ **if the vehicle**
 40 **is equipped with a functioning certified ignition interlock**
 41 **device under IC 9-30-8.**

42 (b) If the court grants the person probationary driving privileges

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1 under section 12(a) of this chapter, that part of the court's order
 2 granting probationary driving privileges does not take effect until ~~the~~
 3 ~~person's driving privileges have been suspended for at least thirty (30)~~
 4 ~~days under IC 9-30-6-9. the date indicated on the order and on the~~
 5 ~~date the person is eligible to apply to the bureau for probationary~~
 6 ~~driving privileges.~~

7 (c) The court shall notify a person who is granted probationary
 8 driving privileges of the following:

9 (1) That the probationary driving period commences when the
 10 bureau issues the probationary driving privileges.

11 **(2) That the bureau may not issue probationary driving**
 12 **privileges until the person provides proof to the satisfaction**
 13 **of the bureau that a functioning certified ignition interlock**
 14 **device has been installed on one (1) or more vehicles that the**
 15 **person expects to operate during the period of probationary**
 16 **driving privileges.**

17 ~~(2)~~ **(3)** That the bureau may not issue probationary driving
 18 privileges until the bureau receives a reinstatement fee from the
 19 person, if applicable, and the person otherwise qualifies for valid
 20 driving privileges.

21 SECTION 7. IC 9-30-5-12 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) If:

23 (1) a court recommends suspension of a person's driving
 24 privileges under section ~~10(b)~~ **10(e)** of this chapter for an offense
 25 committed under this chapter; and

26 (2) the person did not refuse to submit to a chemical test offered
 27 under IC 9-30-6-2 during the investigation of the offense;

28 the court may stay the execution of the suspension of the person's
 29 driving privileges. ~~and grant the person probationary driving privileges~~
 30 ~~for one hundred eighty (180) days.~~

31 (b) An order for probationary privileges must be issued in
 32 accordance with sections 11 and 13 of this chapter.

33 (c) If:

34 (1) a court recommends suspension of a person's driving
 35 privileges under section ~~10(c)~~, ~~10(d)~~, **10(f)**, **10(g)**, or ~~10(e)~~ **10(h)**
 36 of this chapter for an offense committed under this chapter; and

37 (2) the period of suspension recommended by the court exceeds
 38 the minimum permissible fixed period of suspension specified
 39 under section 10 of this chapter;

40 the court may stay the execution of that part of the suspension that
 41 exceeds the minimum fixed period of suspension and grant the person
 42 probationary driving privileges. ~~for a period of time equal to the length~~

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of the stay:

(d) In addition to the other requirements of this section, if a person's driving privileges are suspended or revoked under section ~~10(f)~~ **10(i)** of this chapter, a court must find that compelling circumstances warrant the issuance of probationary driving privileges.

~~(e) Before a court may grant probationary driving privileges under this section, the person to whom the probationary driving privileges will be granted must meet the burden of proving eligibility to receive probationary driving privileges.~~

SECTION 8. IC 9-30-5-14, AS AMENDED BY P.L.2-2005, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. (a) A person whose driving privileges are suspended under section 10 of this chapter:

- (1) is entitled to credit for any days during which the license was suspended under IC 9-30-6-9(c); and
- (2) may not receive any credit for days during which the person's driving privileges were suspended under IC 9-30-6-9(b).

(b) A period of suspension of driving privileges imposed under section 10 of this chapter must be consecutive to any period of suspension imposed under IC 9-30-6-9(b). ~~However, if the court finds in the sentencing order that it is in the best interest of society, the court may terminate all or any part of the remaining suspension under IC 9-30-6-9(b).~~

(c) A person whose driving privileges are suspended under section 10 of this chapter is entitled to credit for any days that the person maintained an ignition interlock probationary license during a suspension under IC 9-30-6-9.

SECTION 9. IC 9-30-5-16 IS REPEALED [EFFECTIVE JULY 1, 2013]. Sec. ~~16~~: (a) Except as provided in subsections (b) and (c) and section 10 of this chapter, the court may, in granting probationary driving privileges under this chapter, also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(b) An order granting probationary driving privileges:

(1) under:

- (A) section 12(a) of this chapter, if the person has a previous conviction that occurred at least ten (10) years before the conviction under consideration by the court; or
- (B) section 12(c) of this chapter; or

(2) to a person who has a prior unrelated conviction for an offense under this chapter of which the consumption of alcohol is an

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1 element;
 2 must prohibit the person from operating a motor vehicle unless the
 3 vehicle is equipped with a functioning certified ignition interlock
 4 device under IC 9-30-8. However, a court is not required to order the
 5 installation of an ignition interlock device for a person described in
 6 subdivision (1) or (2) if the person is successfully participating in a
 7 court supervised alcohol treatment program in which the person is
 8 taking disulfiram or a similar substance that the court determines is
 9 effective in treating alcohol abuse.

10 (c) A court may not order the installation of an ignition interlock
 11 device on a vehicle operated by an employee to whom any of the
 12 following apply:

- 13 (1) Has been convicted of violating section 1 or 2 of this chapter.
 14 (2) Is employed as the operator of a vehicle owned, leased, or
 15 provided by the employee's employer.
 16 (3) Is subject to a labor agreement that prohibits an employee who
 17 is convicted of an alcohol related offense from operating the
 18 employer's vehicle.

19 SECTION 10. IC 9-30-6-8, AS AMENDED BY P.L.125-2012,
 20 SECTION 344, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) Whenever a judicial officer
 22 has determined that there was probable cause to believe that a person
 23 has violated IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal),
 24 the clerk of the court shall forward:

- 25 (1) a copy of the affidavit; and
 26 (2) a bureau certificate as described in section 16 of this chapter;
 27 to the bureau.

28 (b) The probable cause affidavit required under section 7(b)(2) of
 29 this chapter must do the following:

- 30 (1) Set forth the grounds for the arresting officer's belief that there
 31 was probable cause that the arrested person was operating a
 32 vehicle in violation of IC 9-30-5 or a motorboat in violation of
 33 IC 35-46-9 or IC 14-15-8 (before its repeal).
 34 (2) State that the person was arrested for a violation of IC 9-30-5
 35 or operating a motorboat in violation of IC 35-46-9 or IC 14-15-8
 36 (before its repeal).
 37 (3) State whether the person:
 38 (A) refused to submit to a chemical test when offered; or
 39 (B) submitted to a chemical test that resulted in prima facie
 40 evidence that the person was intoxicated.
 41 (4) Be sworn to by the arresting officer.

42 (c) Except as provided in subsection (d), if it is determined under

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1 subsection (a) that there was probable cause to believe that a person
 2 has violated IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal), at
 3 the initial hearing of the matter held under IC 35-33-7-1 the court shall
 4 recommend immediate suspension of the person's driving privileges to
 5 take effect on the date the order is entered, and forward to the bureau
 6 a copy of the order recommending immediate suspension of driving
 7 privileges.

8 (d) If it is determined under subsection (a) that there is probable
 9 cause to believe that a person violated IC 9-30-5, the court may, as an
 10 alternative to suspension of the person's driving privileges under
 11 subsection (c); issue an order recommending that the person be
 12 prohibited from operating a motor vehicle unless the motor vehicle is
 13 equipped with a functioning certified ignition interlock device under
 14 IC 9-30-8 until the bureau is notified by a court that the criminal
 15 charges against the person have been resolved:

16 SECTION 11. IC 9-30-6-8.7 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8.7. (a) A person
 18 commits a Class B infraction if the person:

- 19 (1) operates a motor vehicle without a functioning certified
 20 ignition interlock device; and
 21 (2) is prohibited from operating a motor vehicle unless the motor
 22 vehicle is equipped with a functioning certified ignition interlock
 23 device. ~~under section 8(d) of this chapter.~~

24 (b) A person commits a Class B misdemeanor if the person:

- 25 (1) operates a motor vehicle without a functioning certified
 26 ignition interlock device; and
 27 (2) knows the person is prohibited from operating a motor vehicle
 28 unless the motor vehicle is equipped with a functioning certified
 29 ignition interlock device. ~~under section 8(d) of this chapter.~~

30 SECTION 12. IC 9-30-6-9, AS AMENDED BY P.L.125-2012,
 31 SECTION 345, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) This section does not apply
 33 if an ignition interlock device order is issued under section 8(d) of this
 34 chapter.

35 (b) If the affidavit under section 8(b) of this chapter states that a
 36 person refused to submit to a chemical test, the bureau shall suspend
 37 the driving privileges of the person:

- 38 (1) for:
 39 (A) one (1) year; or
 40 (B) if the person has at least one (1) previous conviction for
 41 operating while intoxicated, two (2) years; or
 42 (2) until the suspension is ordered terminated under IC 9-30-5.

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1 (c) If the affidavit under section 8(b) of this chapter states that a
2 chemical test resulted in prima facie evidence that a person was
3 intoxicated, the bureau shall suspend the driving privileges of the
4 person:

- 5 (1) for one hundred eighty (180) days; or
- 6 (2) until the bureau is notified by a court that the charges have
7 been disposed of;
- 8 whichever occurs first.

9 (d) Whenever the bureau is required to suspend a person's driving
10 privileges under this section, the bureau shall immediately do the
11 following:

12 (1) Mail a notice to the person's last known address that must state
13 that the person's driving privileges will be suspended for a
14 specified period, commencing:

- 15 (A) five (5) days after the date of the notice; or
- 16 (B) on the date the court enters an order recommending
17 suspension of the person's driving privileges under section 8(c)
18 of this chapter;
- 19 whichever occurs first.

20 (2) Notify the person:

- 21 (A) of the right to a judicial review under section 10 of this
22 chapter;
- 23 **(B) of the right to apply for immediate reinstatement of**
24 **driving privileges with an ignition interlock**
25 **probationary license; and**
- 26 **(C) that if the person applies for an ignition interlock**
27 **probationary license, the person waives the right to**
28 **judicial review under section 10 of this chapter.**

29 (e) Notwithstanding IC 4-21.5, an action that the bureau is required
30 to take under this article is not subject to any administrative
31 adjudication under IC 4-21.5.

32 (f) If a person is granted probationary driving privileges under
33 IC 9-30-5 and the bureau has not received the probable cause affidavit
34 described in section 8(b) of this chapter, the bureau shall suspend the
35 person's driving privileges for a period of thirty (30) days. After the
36 thirty (30) day period has elapsed, the bureau shall, upon receiving a
37 reinstatement fee, if applicable, from the person who was granted
38 probationary driving privileges, issue the person probationary driving
39 privileges if the person otherwise qualifies.

40 (g) If the bureau receives an order granting probationary driving
41 privileges to a person ~~who, according to the records of the bureau, has~~
42 ~~a prior for a conviction for operating while intoxicated~~ **that does not**

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1 **contain a requirement that the person may operate only a vehicle**
2 **equipped with a functioning certified ignition interlock device**
3 **under IC 9-30-8**, the bureau shall do the following:

4 (1) Issue the person probationary driving privileges and notify the
5 prosecuting attorney of the county from which the order was
6 received that the person is not eligible for probationary driving
7 privileges **without an ignition interlock restriction.**

8 (2) Send a certified copy of the person's driving record to the
9 prosecuting attorney.

10 The prosecuting attorney shall, in accordance with IC 35-38-1-15,
11 petition the court to correct the court's order. If the bureau does not
12 receive a corrected order within sixty (60) days, the bureau shall notify
13 the attorney general, who shall, in accordance with IC 35-38-1-15,
14 petition the court to correct the court's order.

15 SECTION 13. IC 9-30-6-10, AS AMENDED BY P.L.2-2005,
16 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2013]: Sec. 10. (a) **Except as provided in subsection (b)**, a
18 person against whom an ignition interlock device order has been issued
19 under section 8.5 of this chapter or whose driving privileges have been
20 suspended under section 9 of this chapter is entitled to a prompt
21 judicial hearing. The person may file a petition that requests a hearing:

22 (1) in the court where the charges with respect to the person's
23 operation of a vehicle are pending; or

24 (2) if charges with respect to the person's operation of a vehicle
25 have not been filed, in any court of the county where the alleged
26 offense or refusal occurred that has jurisdiction over crimes
27 committed in violation of IC 9-30-5.

28 **(b) If a person whose driving privilege have been suspended**
29 **under section 9 of this chapter files an application for issuance of**
30 **an ignition interlock probationary license, the person waives the**
31 **right to a hearing under this section.**

32 ~~(b)~~ (c) The petition for review must:

- 33 (1) be in writing;
- 34 (2) be verified by the person seeking review; and
- 35 (3) allege specific facts that contradict the facts alleged in the
36 probable cause affidavit.

37 ~~(c)~~ (d) The hearing under this section shall be limited to the
38 following issues:

39 (1) Whether the arresting law enforcement officer had probable
40 cause to believe that the person was operating a vehicle in
41 violation of IC 9-30-5.

42 (2) Whether the person refused to submit to a chemical test

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1 offered by a law enforcement officer.

2 ~~(d)~~ (e) If the court finds:

3 (1) that there was no probable cause; or

4 (2) that the person's driving privileges were suspended under
5 section 9(b) of this chapter and that the person did not refuse to
6 submit to a chemical test;

7 the court shall order the bureau to rescind the ignition interlock device
8 requirement or reinstate the person's driving privileges.

9 ~~(e)~~ (f) The prosecuting attorney of the county in which a petition has
10 been filed under this chapter shall represent the state on relation of the
11 bureau with respect to the petition.

12 ~~(f)~~ (g) The petitioner has the burden of proof by a preponderance of
13 the evidence.

14 ~~(g)~~ (h) The court's order is a final judgment appealable in the
15 manner of civil actions by either party. The attorney general shall
16 represent the state on relation of the bureau with respect to the appeal.

17 SECTION 14. IC 9-30-8-1, AS AMENDED BY P.L.172-2006,
18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2013]: Sec. 1. (a) **For purposes of this section, an individual
20 is "indigent" if the individual's income is not more than one
21 hundred twenty-five percent (125%) of the federal income poverty
22 level as determined annually by the federal Office of Management
23 and Budget under 42 U.S.C. 9902.**

24 (a) (b) If a court orders the installation of a certified **functioning**
25 ignition interlock device under IC 9-30-5 on a motor vehicle that a
26 person whose license is restricted **owns or** expects to operate, **except as**
27 **provided in subsection (b)**, the court shall set the **period of** time that
28 the installation must remain in effect. **However;**

29 (c) The **initial term ordered by the court** may not exceed the
30 maximum term of imprisonment the court could have imposed **unless**
31 **a court extends the ignition interlock restriction due to the person's**
32 **commission of an offense under IC 9-30-6-8.7 or the person's**
33 **ignition interlock restriction is extended under another section of**
34 **this title.**

35 (d) **An ignition interlock restriction imposed under this chapter**
36 **shall remain in effect until the bureau receives notification from**
37 **the person's ignition interlock vendor, in a form provided or**
38 **approved by the bureau, certifying that none of the following**
39 **incidents have occurred in the four (4) consecutive months prior to**
40 **the date of expiration of the period set under subsection (b):**

41 (1) **Any attempt to start the vehicle with a breath**
42 **concentration of 0.04 or higher if the person does not register**

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1 a test result indicating a breath alcohol concentration lower
2 than four-hundredths (0.04) grams within ten (10) minutes of
3 the initial test.

4 (2) Absent a documented malfunction of the ignition interlock
5 device, failure to take or pass any required test.

6 (3) Failure of the person to appear at the ignition interlock
7 vendor when required to for maintenance, repair, calibration,
8 monitoring, inspection, or replacement of the device.

9 (e) The person shall pay the cost of ~~installation~~ **maintaining the**
10 **person's ignition interlock device requirements** unless the
11 ~~sentencing court bureau~~ determines that the person is indigent **and**
12 **qualifies for a subsidy from the ignition interlock device assistance**
13 **fund under section 6 of this chapter.**

14 (b) If the court orders installation of a certified ignition interlock
15 device under IC 9-30-5-10(d), the installation must remain in effect for
16 a period of six (6) months.

17 (f) Unless the bureau determines a person is indigent, a person
18 shall pay:

19 (1) the cost of installing, removing, or leasing an ignition
20 interlock system; and

21 (2) a twenty dollar (\$20) monthly fee to the person's ignition
22 interlock provider.

23 (g) An ignition interlock provider shall forward all fees collected
24 under subsection (f)(2) to the bureau.

25 SECTION 15. IC 9-30-8-3 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. The bureau shall
27 adopt rules under IC 4-22-2 to establish standards and specifications
28 for an ignition interlock device, the installation of which the courts may
29 mandate under ~~IC 9-30-5-16~~ **this chapter**. The standards and
30 specifications must require at a minimum that the device meets the
31 following requirements:

- 32 (1) Is accurate.
- 33 (2) Does not impede the safe operation of a vehicle.
- 34 (3) Provides a minimum opportunity to be bypassed.
- 35 (4) Shows evidence of tampering if tampering is attempted.
- 36 (5) Has a label affixed warning ~~that~~ a person **that** tampering with
37 or misusing the device is **a crime and may subject that person**
38 **to a criminal and civil penalty: penalties.**

39 SECTION 16. IC 9-30-8-5 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. If a court ~~orders~~
41 **order restricts** a person under ~~IC 9-30-5-16~~ **to operate operating** only
42 a vehicle that is equipped with ~~an~~ **a functioning certified** ignition

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1 interlock device, the bureau shall include that condition when issuing
2 a license.

3 SECTION 17. IC 9-30-8-6 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2013]: Sec. 6. (a) For purposes of this section, an individual is
6 "indigent" if the individual's income is not more than one hundred
7 twenty-five percent (125%) of the federal income poverty level as
8 determined annually by the federal Office of Management and
9 Budget under 42 U.S.C. 9902.

10 (b) The ignition interlock assistance fund (referred to as "the
11 fund" in this chapter) is established for the purposes of paying the
12 costs of installing, removing, or leasing an ignition interlock device,
13 and applicable licensing, for indigent persons who are required to
14 use an ignition interlock device as a condition of probationary
15 driving privileges. The fund shall be administered by the
16 commission.

17 (c) The treasurer of state shall invest the money in the fund not
18 currently needed to meet the obligations of the fund in the same
19 manner as other public funds may be invested.

20 (d) Money in the fund at the end of a state fiscal year does not
21 revert to the state general fund.

22 (e) The fund consists of the following:

23 (1) All fees forwarded to the bureau under section 1(f) of this
24 chapter.

25 (2) Money received from any other source, including
26 appropriations.

27 (f) The bureau may make expenditures from the fund only to
28 administer the fund and carry out the purposes of the fund.

29 (g) The bureau shall adopt rules under IC 4-22-2 to administer
30 this section.

31 SECTION 18. IC 12-23-5-5 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Subject to
33 subsection (b), if a court enters an order conditionally deferring charges
34 that involve a violation of IC 9-30-5, the court shall do the following:

35 (1) Suspend the defendant's driving privileges for at least ~~ninety~~
36 ~~(90)~~ **one hundred eighty (180)** days but not more than two (2)
37 years.

38 (2) Impose other appropriate conditions.

39 (b) A defendant **to whom subsection (a) applies** may be granted
40 probationary driving privileges. ~~only after the defendant's license has~~
41 ~~been suspended for at least thirty (30) days under IC 9-30-6-9.~~

42 (c) ~~If a defendant has at least one (1) conviction for an offense under~~

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1 IC 9-30-5; the order granting probationary driving privileges under
2 subsection (b) must, in a county that provides for the installation of an
3 ignition interlock device under IC 9-30-8, **that** prohibit the defendant
4 from operating a motor vehicle unless the motor vehicle is equipped
5 with a functioning certified ignition interlock device under IC 9-30-8.

6 (d) If a defendant does not have a prior conviction for an offense
7 under IC 9-30-5; the court may, as an alternative to a license
8 suspension under subsection (a)(1); issue an order prohibiting the
9 defendant from operating a motor vehicle unless the motor vehicle is
10 equipped with a functioning certified ignition interlock device under
11 IC 9-30-8. An order requiring an ignition interlock device must remain
12 in effect for at least two (2) years but not more than four (4) years.

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