

Emergency Rule
LSA Document #18-507(E)

DIGEST

Temporarily adds a list of disqualifying crimes and related provisions, implementing [IC 25-1-1.1-6](#). Statutory authority: [IC 25-1-1.1-6](#). Effective November 1, 2018. *NOTE: [IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. This document was filed with the Publisher November 13, 2018.*

SECTION 1. This document implements [IC 25-1-1.1-6](#) regarding disqualifying criminal history for licensure by the Indiana board of licensure for professional geologists, and includes in SECTION 4 of this document an explicit list of crimes that will disqualify an individual from receiving a license.

SECTION 2. An applicant for licensure who has a disqualifying criminal history may still be granted a license based on the criteria stated in [IC 25-1-1.1-6\(f\)](#).

SECTION 3. This document and [IC 25-1-1.1-6](#) do not limit the authority of the board to issue a license on probation if appropriate under [IC 25-1-11-19](#) or any other applicable statute.

SECTION 4. This SECTION contains the list of disqualifying crimes as follows:

(1) Crimes involving sexual acts that can be considered without respect to age of conviction:

- (A) Child molesting ([IC 35-42-4-3](#)).
- (B) Child seduction ([IC 35-42-4-7](#)).
- (C) Criminal deviate conduct ([IC 35-42-4-2](#)) (before its repeal).
- (D) Incest ([IC 35-46-1-3](#)).
- (E) Rape ([IC 35-42-4-1](#)).
- (F) Sexual misconduct with a minor ([IC 35-42-4-9\(a\)](#)).

(2) Crimes of violence that can be considered without respect to age of conviction:

- (A) Aggravated battery ([IC 35-42-2-1.5](#)).
 - (B) Attempted murder ([IC 35-41-5-1](#)).
 - (C) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony ([IC 35-43-2-1](#)).
 - (D) Child exploitation as a Level 5 felony under [IC 35-42-4-4\(b\)](#) or a Level 4 felony under [IC 35-42-4-4\(c\)](#).
 - (E) Child molesting ([IC 35-42-4-3](#)).
 - (F) Criminal deviate conduct ([IC 35-42-4-2](#)) (before its repeal).
 - (G) Involuntary manslaughter ([IC 35-42-1-4](#)).
 - (H) Kidnapping ([IC 35-42-3-2](#)).
 - (I) Murder ([IC 35-42-1-1](#)).
 - (J) Operating a vehicle while intoxicated causing death ([IC 9-30-5-5](#)).
 - (K) Operating a vehicle while intoxicated causing serious bodily injury to another person ([IC 9-30-5-4](#)).
 - (L) Rape ([IC 35-42-4-1](#)).
 - (M) Reckless homicide ([IC 35-42-1-5](#)).
 - (N) Resisting law enforcement as a felony ([IC 35-44.1-3-1](#)).
 - (O) Robbery as a Level 2 felony or a Level 3 felony ([IC 35-42-5-1](#)).
 - (P) Sexual misconduct with a minor as a Level 1 felony under [IC 35-42-4-9\(a\)\(2\)](#) or a Level 2 felony under [IC 35-42-4-9\(b\)\(2\)](#).
 - (Q) Unlawful possession of a firearm by a serious violent felon ([IC 35-47-4-5](#)).
 - (R) Voluntary manslaughter ([IC 35-42-1-3](#)).
- (3) Possession of cocaine or a narcotic drug ([IC 35-48-4-6](#)).
- (4) Possession of methamphetamine ([IC 35-48-4-6.1](#)).
- (5) Possession of a controlled substance ([IC 35-48-4-7\(a\)](#)).
- (6) Fraudulently obtaining a controlled substance ([IC 35-48-4-7\(c\)](#)).
- (7) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) ([IC 35-48-4-8.1\(b\)](#)).
- (8) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) ([IC 35-48-4-8.5\(b\)](#)).
- (9) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) ([IC 35-48-4-8.3\(b\)](#) (before its amendment on

July 1, 2015)).

(10) Possession of marijuana, hash oil, hashish, or salvia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) ([IC 35-48-4-11](#)).

(11) Possession of a synthetic drug or synthetic drug lookalike substance as a:

(A) Class D felony for a crime committed before July 1, 2014, under:

(i) [IC 35-48-4-11](#), before its amendment in 2013; or

(ii) [IC 35-48-4-11.5](#); or

(B) Level 6 felony for a crime committed after June 30, 2014, under [IC 35-48-4-11.5](#).

(12) Maintaining a common nuisance ([IC 35-48-4-13](#) (repealed) or [IC 35-45-1-5](#)), if the common nuisance involves a controlled substance.

(13) An offense relating to registration, labeling, and prescription forms ([IC 35-48-4-14](#)).

(14) A sex crime under [IC 35-42-4](#) in addition to those listed in SECTION 4(1) and (2) of this rule [subdivisions (1) and (2)], only excepting making an unlawful proposition ([IC 35-45-4-3](#)) and prostitution ([IC 35-45-4-2](#)). Making an unlawful proposition ([IC 35-45-4-3](#)) and prostitution ([IC 35-45-4-2](#)) are not disqualifying crimes.

(15) Dealing in a controlled substance resulting in death ([IC 35-42-1-1.5](#)).

(16) Dealing in or manufacturing cocaine or a narcotic drug ([IC 35-48-4-1](#)).

(17) Dealing in methamphetamine ([IC 35-48-4-1.1](#)).

(18) Manufacturing methamphetamine ([IC 35-48-4-1.2](#)).

(19) Dealing in a schedule I, II, or III controlled substance ([IC 35-48-4-2](#)).

(20) Dealing in a schedule IV controlled substance ([IC 35-48-4-3](#)).

(21) Dealing in a schedule V controlled substance ([IC 35-48-4-4](#)).

(22) Dealing in a substance represented to be a controlled substance ([IC 35-48-4-4.5](#)).

(23) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance ([IC 35-48-4-4.6](#)).

(24) Dealing in a counterfeit substance ([IC 35-48-4-5](#)).

(25) Dealing in marijuana, hash oil, hashish, or salvia as a felony ([IC 35-48-4-10](#)).

(26) Dealing in a synthetic drug or synthetic drug lookalike substance ([IC 35-48-4-10.5](#) (or [IC 35-48-4-10\(b\)](#) before its amendment in 2013)).

(27) Perjury ([IC 35-44-1-2-1](#)).

(28) Conspiracy under [IC 35-41-5-2](#) to commit an offense listed in this SECTION.

(29) Attempt under [IC 35-41-5-1](#) to commit an offense listed in this SECTION.

(30) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed ([IC 25-26-14](#)).

(31) Violation of [IC 25-17.6-8-2](#) (unauthorized practice of professional geologist) under [IC 25-17.6-8-2](#).

SECTION 5. A crime in any other jurisdiction for which the elements of the crime for which conviction was entered are substantially similar to the elements of a crime included on the list in SECTION 4 of this document shall also be a crime that will disqualify an individual from receiving a license and therefore included on the list.

SECTION 6. The fee for a petition under [IC 25-1-1.1-6\(h\)](#) for a determination as to whether the individual's misdemeanor or felony conviction will disqualify the individual from receiving a license or certification shall be twenty-five dollars (\$25).

SECTION 7. SECTIONS 1 through 6 of this document take effect November 1, 2018. NOTE: [IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. This document was filed with the Publisher November 13, 2018.

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