

2025 Legal Update

Legislative Changes

1. SEA 324: Dealing in Fentanyl felony levels were raised under IC 35-48-4-1
 - a. Level 4 felony now if the fentanyl weighs less than 1 gram
 - b. Level 3 felony if weight is 1-5 grams or less than 1 gram with an enhancement
 - c. Level 2 felony if weight is 5+ grams, or 1-5 grams with an enhancement
2. HEA 1167: drug test kits/strips are not considered drug paraphernalia for purposes of arrest
3. SEA 219: Criminal trespass was amended to allow officers to convey the owner's message. Added the language "or a law enforcement officer acting on behalf of the other person or that person's agent"
4. SEA 157: Added a squatter chapter IC 32-31-12. A property owner may call law enforcement to remove a squatter after the property owner swears and affirms under penalties of perjury that the "squatter" does not have and has never had a rental agreement, the owner's permission, or another legal interest in the property. Officers must respond within 48 hours of the owner calling for assistance.
* Contact your agency's attorney for assistance in developing a template affidavit
5. HEA 1122: A NEW Unlawful Encroachment statute was created that is a C Misdemeanor. This is under IC 35-44.1-2-**15**. You should not arrest under the 35-44.1-2-**14** statute anymore.
 - a. An officer must **reasonably believe** the person's presence within 25 feet **will interfere with the performance** of the officer's duties
 - b. Then you must order the person to stop approaching and can arrest if the person continues to approach within 25 feet
6. SEA 198: Amended the False Informing statute (IC 35-44.1-2-3) charging levels:
 - a. Class A misdemeanor if there is a false report that a person is **dangerous** (amendment in 2024)
 - b. Class A misdemeanor if there is any false report made that causes an officer to be dispatched
 - c. Level 6 felony if there is a false report that a person is **dangerous and** it causes an officer to be dispatched, it substantially hinders any law enforcement process, it results in harm to another, or would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened
 - d. Level 5 felony if there is a report that a person is **dangerous and** results in serious bodily injury or death
7. HEA 1637: Changes to Criminal Recklessness

- a. Class **A** misdemeanor is now the base charging level for criminal recklessness
 - b. It is a Level 6 felony if a passenger of a vehicle points a firearm at another person, vehicle, dwelling, or building where people are likely to be present, if the driver of the vehicle commits criminal recklessness, even if the driver is not charged or convicted
 - c. Level 5 felony if a firearm is fired into an **occupied vehicle**, an inhabited dwelling, or another place/building where people are likely to be present
- 8. SEA 120: DNA samples shall be taken from felony arrestees during the booking process. Refusal is a Class C Misdemeanor
- 9. HEA 1393: The jail or detention facility must notify the county sheriff when a person is arrested for a crime (felony or misdemeanor) and there is probable cause to believe the person is not lawfully present in the US. The Sheriff is tasked with the responsibility to report
- 10. HEA 1014: Public safety amendments
 - a. The term “child sex abuse material” (CSAM) replaces child pornography throughout the criminal code statutes
 - b. Resisting Law Enforcement became a Level 5 felony if a deadly weapon is used or drawn, if moderate bodily injury is inflicted, or if a vehicle is operated in a manner that creates a substantial risk of bodily injury. Level 4 felony if the vehicle pursuit causes serious bodily injury or the defendant has a prior conviction for using a vehicle to resist and uses a vehicle to resist this time
 - c. Depositing or causing the deposit of 30 square feet or more of contaminants or solid waste upon another person’s land is a C misdemeanor under the new statute IC 13-30-10-7
- 11. SEA 141 established new mandatory eyewitness identification procedures
 - a. Lineups: these procedures must be followed:
 - i. Instruct the witness before the lineup that: a) the perpetrator may or may not be present, b) the witness is not required to make an identification, c) it is as important to exclude an innocent person as it is to make an identification, and d) the investigation will continue regardless
 - ii. One person conducts the lineup
 - iii. Include only 1 suspect in the lineup
 - iv. No person may speak to the witness concerning the suspect’s position or regarding anything that might influence the ID
 - v. Include at least 5 fillers who must resemble the **description given** by the witness, including unique or unusual features

- vi. The suspect should not unduly stand out from the fillers
- vii. Use different fillers if the witness is participating in another lineup for another suspect
- viii. Place the suspect in a different position in the lineup for each eyewitness
- ix. Document any statement as to the witness's confidence level that the person identified is the perpetrator
- b. Photo Arrays: follow the procedures above but the photograph of the suspect must be recent and resemble the person's appearance at the time of the offense
- c. Showups: must be recorded by video

12. SEA 259:

- a. Officers may not direct, encourage, or knowingly allow the questioning of a custodial suspect by a civilian if that questioning is reasonably likely to elicit an incriminating response
- b. Officers must disclose in a PCA any known personal, financial, or familial relationship with a party to an investigation or any other person involved if that relationship could reasonably be perceived to interfere with the officer's objectivity or impartiality
- c. Child witness/victim names in a case involving a sex offense committed against a child must be redacted from the PCA and replaced with more generic descriptors. Initials should NOT be used.
- d. Redact all addresses, emails, dates of birth, and phone numbers of witnesses and victims from the PCA

13. SEA 159: Oral warrants must be recorded and transcribed. LEO agencies must retain and provide to defense all requests for warrants, including those warrants that were denied.

14. HEA 1471 Giglio list procedures:

- a. If an officer is found to have committed:
 - i. An intentional act of dishonesty, including untruthfulness in reports and testimony
 - ii. A crime
 - iii. Intentional mishandling of evidence
 - iv. Excessive force, or
 - v. Racially motivated bias, speech, or acts
- b. The agency must notify the county prosecutor and provide relevant information

- c. The prosecutor must conduct an independent review, determine if the officer should be placed on a Giglio list, and then send written notice to the officer's current or former employer
 - d. The LEO agency must then send a copy to the officer
 - e. The officer must submit a Request for Reconsideration within 30 days of receipt, or it is waived
 - f. The prosecutor must approve or deny the officer's Request
 - g. The prosecutor may remove the officer's name at any time, must adopt policies about the process, and must provide the defense with the information if the officer is a material witness
15. SEA 26 created Unlawful Use of a Signal Jammer, Level 6 felony IC 35-45-2-6
16. SEA 95 added two new chapters to assist LEO agencies in getting training costs reimbursed if an officer leaves within 3 years of completing Tier I training for another public agency or private employer
- ** very specific procedures must be followed, your agency's attorney should assist
17. SEA 331: A person who changes the color of their vehicle must apply for a registration amendment with the BMV within 30 days. Officers should issue a warning to the owner. It is a Class C misdemeanor if the color was changed after the vehicle was used in the commission of a crime and the owner fails to apply
18. HEA 1114 new statutes were added to Title 9:
- a. IC 9-17-2-15.2 Fraud of a Motor Vehicle Certificate of Title: knowingly or intentionally applies for/receives a vehicle title intending to allow an unlicensed/permitted person to drive
 - b. IC 9-18.1-3-11 Fraud Involving a Motor Vehicle Registration: knowingly or intentionally registers/applies/receives registration intending to allow an unlicensed/permitted person to drive
 - c. IC 9-24-18-2.2 Fraudulent Transfer of a Driver's License: knowingly or intentionally applies for/receives a license or permit intending to transfer it directly or indirectly to another
 - d. Operating Never Received penalties were amended: Class A misdemeanor if results in bodily injury, Level 6 felony if results in serious bodily injury, Level 5 felony if results in death or catastrophic injury
19. HEA 1554: HTV for Life is a Level 6 felony if the license was forfeited on or before June 30, 2015. It is a Level 5 felony if the license forfeiture occurred on or after July 1, 2015
20. HEA 1012: LEO agencies must adopt procedures before July 1 of next year (2026) to notify a real property owner of damage to their property, crops, or building/structure

or property fixture that the officer knows about and debris remains that could lead to more damage

21. SEA 74: If a person is in need of medical assistance due to intoxication and someone calls for help, the person who needed assistance cannot be prosecuted for public intoxication, intoxication on a common carrier, or minor consumption
22. SEA 281: provides LEO with quick access to juvenile court records showing that a juvenile committed an offense that would be a serious violent felony
23. HEA 1099: amends “safe haven infant” definition to an infant who appears to be not more than **60 days** old
24. SEA 255: schools must notify parents of all involved when a report is made of bullying. The notification must be before the end of the next school day
25. HEA 1412 Child Abuse Investigations: LEOs must investigate the institution, school, facility, organization, or agency to determine if they knew that abuse was happening and failed to report when a report is made regarding a staff member, youth coach, or volunteer abusing or neglecting a child
26. SEA 108/SEA 209 Charity Gaming: several changes were made regarding charity gaming events
27. HEA 1276/HEA 1275 amendments were made to IC 7.1 regarding alcohol sampling and sales at farmer’s markets and alcohol donations to qualified organizations
28. SEA 280: allows rifle hunting of deer on public property