



January 24, 2014

SENATE BILL No. 227

DIGEST OF SB 227 (Updated January 22, 2014 5:09 pm - DI 106)

Citations Affected: IC 7.1-5; IC 16-18; IC 16-31; IC 34-31; IC 35-38.

Synopsis: Alcohol and medical emergencies. Provides that a person is immune from arrest or prosecution for certain alcohol offenses if the arrest or prosecution is due to the person: (1) reporting a medical emergency; (2) being the victim of a sex offense; or (3) witnessing and reporting what the person believes to be a crime. (Current law provides immunity from arrest or prosecution only if the person reports a medical emergency that is due to alcohol consumption.) Establishes a mitigating circumstance for the sentencing of a person convicted of a controlled substance offense if the person's arrest or prosecution was facilitated in part because the person requested emergency medical assistance for an individual in need of medical assistance due to the use of alcohol or a controlled substance. Permits a court to defer entering a judgment of conviction for an individual arrested for an alcohol offense if the individual was arrested after a report that the person needed medical assistance due to the use of alcohol if certain conditions are met. Permits an emergency medical responder to administer an overdose prevention drug to a person suffering from an overdose.

Effective: Upon passage.

Merritt

January 9, 2014, read first time and referred to Committee on Judiciary.
January 23, 2014, amended, reported favorably — Do Pass.

SB 227—LS 6844/DI 106



January 24, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 227

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 7.1-5-1-6.5, AS ADDED BY P.L.93-2012,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 6.5. (a) A law enforcement officer may not
4 take a person into custody based solely on the commission of an
5 offense involving alcohol described in subsection (b) if the law
6 enforcement officer, after making a reasonable determination and
7 considering the facts and surrounding circumstances, reasonably
8 believes that all of the following apply:
9 (1) The law enforcement officer has contact with the person
10 because the person:
11 (A) either:
12 (A) (i) requested emergency medical assistance; or
13 (B) (ii) acted in concert with another person who requested
14 emergency medical assistance;
15 for an individual who reasonably appeared to be in need of
16 medical assistance; ~~due to alcohol consumption.~~

SB 227—LS 6844/DI 106



1 **(B) is the victim of a reported sex offense (as defined in**
 2 **IC 11-8-8-5.2); or**
 3 **(C) witnessed and reported what the person reasonably**
 4 **believed to be a crime.**
 5 (2) The person described in subdivision (1)(A), ~~or~~ (1)(B), **or**
 6 **(1)(C):**
 7 (A) provided:
 8 (i) the person's full name; and
 9 (ii) any other relevant information requested by the law
 10 enforcement officer; **and**
 11 **(B) in the case of a person described in subdivision (1)(A):**
 12 ~~(B) (i)~~ **(i)** remained at the scene with the individual who
 13 reasonably appeared to be in need of medical assistance ~~due~~
 14 ~~to alcohol consumption~~ until emergency medical assistance
 15 arrived; and
 16 ~~(C) (ii)~~ **(ii)** cooperated with emergency medical assistance
 17 personnel and law enforcement officers at the scene.
 18 (b) A person who meets the criteria of subsection (a)(1) and (a)(2)
 19 is immune from criminal prosecution for an offense under:
 20 (1) section 3 of this chapter if the offense involved a state of
 21 intoxication caused by the person's use of alcohol;
 22 (2) section 6 of this chapter if the offense involved the person
 23 being, or becoming, intoxicated as a result of the person's use of
 24 alcohol; and
 25 (3) IC 7.1-5-7-7.
 26 (c) A person may not initiate or maintain an action against a law
 27 enforcement officer based on the officer's compliance or failure to
 28 comply with this section.
 29 SECTION 2. IC 7.1-5-1-6.6 IS ADDED TO THE INDIANA CODE
 30 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 31 **UPON PASSAGE]: Sec. 6.6. (a) This section applies only to a**
 32 **person:**
 33 **(1) arrested for a violation of:**
 34 **(A) section 3 of this chapter if the offense involved a state**
 35 **of intoxication caused by the person's use of alcohol;**
 36 **(B) section 6 of this chapter if the offense involved the**
 37 **person being, or becoming, intoxicated as a result of the**
 38 **person's use of alcohol; or**
 39 **(C) IC 7.1-5-7-7; and**
 40 **(2) whose arrest was facilitated because another person**
 41 **reported that the person appeared to be in need of medical**
 42 **assistance due to the use of alcohol.**



1 **(b) If a person described in subsection (a):**

2 **(1) does not have a prior conviction for an offense described**
3 **in subsection (a);**

4 **(2) pleads guilty to an offense described in subsection (a); and**

5 **(3) agrees to be placed in the custody of the court;**

6 **the court, without entering a judgment of conviction, shall defer**
7 **further proceedings and place the person in the custody of the**
8 **court under conditions determined by the court.**

9 **(c) If the person placed in the custody of the court violates the**
10 **conditions of custody, the court may enter a judgment of**
11 **conviction. However, if the person fulfills the conditions of the**
12 **custody, the court shall dismiss the charges against the person.**

13 **(d) There may be only one (1) dismissal under this section with**
14 **respect to a person.**

15 SECTION 3. IC 16-18-2-263.9 IS ADDED TO THE INDIANA
16 CODE AS A NEW SECTION TO READ AS FOLLOWS
17 [EFFECTIVE UPON PASSAGE]: **Sec. 263.9. "Overdose prevention**
18 **drug", for purposes of IC 16-31, means naloxone or any other drug**
19 **that:**

20 **(1) is an opioid, opiate, or morphine antagonist; and**

21 **(2) prevents or reverses the effects of:**

22 **(A) opioids;**

23 **(B) opiates; or**

24 **(C) morphine;**

25 **including respiratory depression, sedation, and hypotension.**

26 SECTION 4. IC 16-31-2-9, AS AMENDED BY P.L.77-2012,
27 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 UPON PASSAGE]: **Sec. 9. The commission shall establish the**
29 **following:**

30 **(1) Standards for persons who provide emergency medical**
31 **services and who are not licensed or regulated under IC 16-31-3.**

32 **(2) Training standards for the administration of antidotes,**
33 **vaccines, and antibiotics to prepare for or respond to a terrorist or**
34 **military attack.**

35 **(3) Training and certification standards for the administration of**
36 **epinephrine through an auto-injector by an emergency medical**
37 **technician.**

38 **(4) Training standards to permit the use of antidote kits containing**
39 **atropine and pralidoxime chloride for the treatment of exposure**
40 **to nerve agents by an emergency medical technician or an**
41 **emergency medical responder.**

42 **(5) Standards for distribution, administration, use, and**



1 **training in the use of an overdose prevention drug.**

2 SECTION 5. IC 16-31-3-23.5 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: **Sec. 23.5. An emergency medical**
5 **responder may administer an overdose prevention drug to an**
6 **individual who is suffering from an overdose.**

7 SECTION 6. IC 16-31-6-2.5 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: **Sec. 2.5. (a) Except for an act of gross**
10 **negligence or willful misconduct, an emergency medical responder**
11 **who administers an overdose prevention drug according to**
12 **standards established by the commission under IC 16-31-2-9 to an**
13 **individual suffering from an overdose is immune from civil liability**
14 **for acts or omissions when administering the drug.**

15 **(b) If the emergency medical responder is immune from civil**
16 **liability for the emergency medical responder's act or omission, a**
17 **person who has only an agency relationship with the emergency**
18 **medical responder is also immune from civil liability for the act or**
19 **omission.**

20 SECTION 7. IC 34-31-2-2.5 IS ADDED TO THE INDIANA CODE
21 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: **Sec. 2.5. IC 16-31-6-2.5 (Concerning emergency**
23 **medical responders who administer an overdose prevention drug).**

24 SECTION 8. IC 35-38-1-7.1, AS AMENDED BY P.L.126-2012,
25 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 UPON PASSAGE]: **Sec. 7.1. (a) In determining what sentence to**
27 **impose for a crime, the court may consider the following aggravating**
28 **circumstances:**

29 (1) The harm, injury, loss, or damage suffered by the victim of an
30 offense was:

31 (A) significant; and

32 (B) greater than the elements necessary to prove the
33 commission of the offense.

34 (2) The person has a history of criminal or delinquent behavior.

35 (3) The victim of the offense was less than twelve (12) years of
36 age or at least sixty-five (65) years of age at the time the person
37 committed the offense.

38 (4) The person:

39 (A) committed a crime of violence (IC 35-50-1-2); and

40 (B) knowingly committed the offense in the presence or within
41 hearing of an individual who:

42 (i) was less than eighteen (18) years of age at the time the



- 1 person committed the offense; and
 2 (ii) is not the victim of the offense.
- 3 (5) The person violated a protective order issued against the
 4 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
 5 IC 34-4-5.1 before their repeal), a workplace violence restraining
 6 order issued against the person under IC 34-26-6, or a no contact
 7 order issued against the person.
- 8 (6) The person has recently violated the conditions of any
 9 probation, parole, pardon, community corrections placement, or
 10 pretrial release granted to the person.
- 11 (7) The victim of the offense was:
 12 (A) a person with a disability (as defined in IC 27-7-6-12), and
 13 the defendant knew or should have known that the victim was
 14 a person with a disability; or
 15 (B) mentally or physically infirm.
- 16 (8) The person was in a position having care, custody, or control
 17 of the victim of the offense.
- 18 (9) The injury to or death of the victim of the offense was the
 19 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 20 (10) The person threatened to harm the victim of the offense or a
 21 witness if the victim or witness told anyone about the offense.
- 22 (11) The person:
 23 (A) committed trafficking with an inmate under
 24 IC 35-44.1-3-5; and
 25 (B) is an employee of the penal facility.
- 26 (b) The court may consider the following factors as mitigating
 27 circumstances or as favoring suspending the sentence and imposing
 28 probation:
 29 (1) The crime neither caused nor threatened serious harm to
 30 persons or property, or the person did not contemplate that it
 31 would do so.
 32 (2) The crime was the result of circumstances unlikely to recur.
 33 (3) The victim of the crime induced or facilitated the offense.
 34 (4) There are substantial grounds tending to excuse or justify the
 35 crime, though failing to establish a defense.
 36 (5) The person acted under strong provocation.
 37 (6) The person has no history of delinquency or criminal activity,
 38 or the person has led a law-abiding life for a substantial period
 39 before commission of the crime.
 40 (7) The person is likely to respond affirmatively to probation or
 41 short term imprisonment.
 42 (8) The character and attitudes of the person indicate that the



- 1 person is unlikely to commit another crime.
- 2 (9) The person has made or will make restitution to the victim of
- 3 the crime for the injury, damage, or loss sustained.
- 4 (10) Imprisonment of the person will result in undue hardship to
- 5 the person or the dependents of the person.
- 6 (11) The person was convicted of a crime involving the use of
- 7 force against a person who had repeatedly inflicted physical or
- 8 sexual abuse upon the convicted person and evidence shows that
- 9 the convicted person suffered from the effects of battery as a
- 10 result of the past course of conduct of the individual who is the
- 11 victim of the crime for which the person was convicted.
- 12 **(12) The person was convicted of a crime relating to a**
- 13 **controlled substance and the person's arrest or prosecution**
- 14 **was facilitated in part because the person:**
- 15 **(A) requested emergency medical assistance; or**
- 16 **(B) acted in concert with another person who requested**
- 17 **emergency medical assistance;**
- 18 **for an individual who reasonably appeared to be in need of**
- 19 **medical assistance due to the use of alcohol or a controlled**
- 20 **substance.**
- 21 (c) The criteria listed in subsections (a) and (b) do not limit the
- 22 matters that the court may consider in determining the sentence.
- 23 (d) A court may impose any sentence that is:
- 24 (1) authorized by statute; and
- 25 (2) permissible under the Constitution of the State of Indiana;
- 26 regardless of the presence or absence of aggravating circumstances or
- 27 mitigating circumstances.
- 28 **SECTION 9. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 227, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 3 with "[EFFECTIVE UPON PASSAGE]".

Page 2, line 3, after "reported" insert "**what the person reasonably believed to be**".

Page 3, between lines 12 and 13, begin a new paragraph and insert:
 "SECTION 3. IC 16-18-2-263.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 263.9. "Overdose prevention drug", for purposes of IC 16-31, means naloxone or any other drug that:**

(1) is an opioid, opiate, or morphine antagonist; and

(2) prevents or reverses the effects of:

(A) opioids;

(B) opiates; or

(C) morphine;

including respiratory depression, sedation, and hypotension.

SECTION 4. IC 16-31-2-9, AS AMENDED BY P.L.77-2012, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The commission shall establish the following:

(1) Standards for persons who provide emergency medical services and who are not licensed or regulated under IC 16-31-3.

(2) Training standards for the administration of antidotes, vaccines, and antibiotics to prepare for or respond to a terrorist or military attack.

(3) Training and certification standards for the administration of epinephrine through an auto-injector by an emergency medical technician.

(4) Training standards to permit the use of antidote kits containing atropine and pralidoxime chloride for the treatment of exposure to nerve agents by an emergency medical technician or an emergency medical responder.

(5) Standards for distribution, administration, use, and training in the use of an overdose prevention drug.

SECTION 5. IC 16-31-3-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS



[EFFECTIVE UPON PASSAGE]: **Sec. 23.5. An emergency medical responder may administer an overdose prevention drug to an individual who is suffering from an overdose.**

SECTION 6. IC 16-31-6-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) Except for an act of gross negligence or willful misconduct, an emergency medical responder who administers an overdose prevention drug according to standards established by the commission under IC 16-31-2-9 to an individual suffering from an overdose is immune from civil liability for acts or omissions when administering the drug.**

(b) If the emergency medical responder is immune from civil liability for the emergency medical responder's act or omission, a person who has only an agency relationship with the emergency medical responder is also immune from civil liability for the act or omission.

SECTION 7. IC 34-31-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. IC 16-31-6-2.5 (Concerning emergency medical responders who administer an overdose prevention drug)."**

Page 5, after line 16, begin a new paragraph and insert:

"SECTION 9. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 227 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0.

