

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT**

LS 6289

BILL NUMBER: HB 1091

NOTE PREPARED: Dec 2, 2025

BILL AMENDED:

SUBJECT: Resisting Law Enforcement.

FIRST AUTHOR: Rep. DeLaney

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill resolves a conflict between HEA 1014-2025 and HEA 1637-2025.

Effective Date: July 1, 2026.

Explanation of State Expenditures: *Summary* - Based on judicial precedent, if a criminal statute is ambiguous, courts may apply the Rule of Lenity, which requires interpreting the statute in favor of the defendant and strictly construed against the State. In this context, the rule would default to the lower felony level for resisting law enforcement under IC 35-44.1-3-1(c)(1)(B) and IC 35-44.1-3-1(c)(2). To the extent the Rule of Lenity applies, this bill would affect state expenditures and the Department of Correction (DOC) population.

This bill proposes to clarify which penalty applies for resisting law enforcement under IC 35-44.1-3-1(c)(1)(B) and IC 35-44.1-3-1(c)(2). Consequently, this could increase the DOC population by an estimated 176 in FY 2027 and up to 589 offenders by FY 2031, and increase costs by approximately \$851,159 in FY 2027 and up to \$2.84 M annually by FY 2031.

Additional Information - Based on the Rule of Lenity, the following provisions under IC 35-44.1-3-1 would be affected:

Resisting Law Enforcement (Level 5 to Level 6): For IC 35-44.1-3-1(c)(1)(B), courts would default to a Level 6 felony rather than elevate the penalty to a Level 5 felony when the person does the following: 1) draws or uses a deadly weapon; 2) inflicts bodily injury on or otherwise causes bodily injury to another person; or 3) operates a vehicle in a manner that creates a substantial risk of bodily injury to another person.

Resisting Law Enforcement (Level 4 to Level 5): The same reasoning applies to IC 35-44.1-3-1(c)(2), requiring courts to default to a Level 5 felony instead of a Level 4 felony when the person: 1) operates a vehicle in a manner that causes serious bodily injury to another person; or 2) uses a vehicle to commit the offense and has a prior unrelated conviction for resisting law enforcement.

The following table shows the estimated additional population that would be committed to DOC by applying the higher felony level for resisting law enforcement.

	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
Added Population	176	380	544	580	589	589
Added Costs to DOC:	\$851,159	\$1.83 M	\$2.62 M	\$2.80 M	\$2.84 M	\$2.84 M
Notes: This estimate is based on the marginal costs of \$4,825 in FY 2025 held constant over these six years.						

Elevating a Level 6 to a Level 5 felony would shift more offenders from local confinement and supervision to DOC facilities. On average, 13% of Level 6 offenders and 74% of Level 5 offenders are sentenced to DOC, serving approximately 1.6 years and 3.7 years, respectively. In comparison, 83% of Level 4 felons are committed to DOC for an average of 4.2 years. As a result, offenders would remain incarcerated for an additional 2 years for a Level 5 felony and 1.5 years for a Level 4 felony (accounting for 25% good credit time), increasing the number of individuals in state rather than local custody.

The average expenditure to house an adult offender was \$30,674 annually, or \$83.98 daily, in FY 2025. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,825 annually, or \$13.22 daily, per prisoner. These marginal cost estimates are based on contractual agreements with food and medical vendors and projections based on prior years for clothing and hygiene. The estimated average cost of housing a juvenile in a state juvenile facility was \$140,044, or \$383.42 daily, in FY 2025. The marginal cost for juvenile facilities was \$8,986 annually or \$24.62 daily.

Explanation of State Revenues: No change would likely occur in state revenue as a result of this bill since criminal fines and court fees are the same for all felonies. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Explanation of Local Expenditures: *Resisting Law Enforcement - Felony:* As proposed, prosecuting defendants at the higher felony level for resisting law enforcement may increase the pretrial jail population. However, post-sentencing jail time could decrease, as 54% of Level 6 felony convictions that are currently served in county jails would likely shift to DOC custody.

Resisting Law Enforcement - Misdemeanor: The bill also permits school resource officers to make an arrest if a person knowingly or intentionally flees from a law enforcement officer, which is a Class A misdemeanor. A Class A misdemeanor is punishable by up to one year in jail.

[If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The Gateway reports show that in CY 2023, housing offenders in 33 Indiana county jails cost an average of \$56 to \$79 per day.]

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State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies, public schools.

Information Sources: Smith v. State, 675 N.E.2d 693 (Ind. 1996); Indiana Sheriffs' Association, Indiana Supreme Court, Indiana Trial Court Fee Manual; Department of Corrections; Indiana Gateway for Government Units, 2023 Annual Financial Reports, <https://gateway.ifionline.org/public/download.aspx> Bureau of Justice Statistics, 2023 Annual Survey of Jails Data Series, <https://www.icpsr.umich.edu/web/NACJD/series/7>.

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