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SENATE BILL No. 160

Proposed Changes to introduced printing by AM016003

DIGEST OF PROPOSED AMENDMENT

Intimidation. Specifies that the aggravating circumstance for wearing a mask applies if the person wore the mask with the intent to intimidate another person.

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:

SECTION 1. IC 35-31.5-2-195.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 195.5. "Mask", for purposes of IC 35-38-1-7.1, means a covering that obscures or is worn over a person's nose or mouth. However, the term does not include the following:**

- (1) A theater costume worn by a person participating in a theater production.
- (2) A covering worn for religious purposes.
- (3) A covering worn for the purposes of occupational safety.
- (4) A medical device, if prescribed by a physician.
- (5) A helmet or similar protective device, if worn by a person operating or riding on a motorcycle, a bicycle, a scooter, roller skates, or a similar device.
- (6) Athletic equipment, if worn by a person participating in an athletic contest.
- (7) Equipment worn by an emergency medical services provider (as defined by IC 16-41-10-1) while acting within the scope of the provider's professional responsibilities.
- (8) Equipment worn by a law enforcement officer while

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1 **acting within the scope of the officer's professional**
 2 **responsibilities.**

3 SECTION 2. IC 35-38-1-7.1, AS AMENDED BY P.L.218-2025,
 4 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2026]: Sec. 7.1. (a) In determining what sentence to impose
 6 for a crime, the court may consider the following aggravating
 7 circumstances:

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

10 (A) significant; and

11 (B) greater than the elements necessary to prove the
 12 commission of the offense.

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

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

17 (4) The person:

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

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

21 (i) was less than eighteen (18) years of age at the time
 22 the person committed the offense; and

23 (ii) is not the victim of the offense.

24 (5) The person violated a protective order issued against the
 25 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
 26 IC 34-4-5.1 before their repeal), a workplace violence restraining
 27 order issued against the person under IC 34-26-6, or a no contact
 28 order issued against the person.

29 (6) The person has recently violated the conditions of any
 30 probation, parole, pardon, community corrections placement, or
 31 pretrial release granted to the person.

32 (7) The victim of the offense was:

33 (A) a person with a disability (as defined in IC 27-7-6-12),
 34 and the defendant knew or should have known that the
 35 victim was a person with a disability; or

36 (B) mentally or physically infirm.

37 (8) The person was in a position having care, custody, or control
 38 of the victim of the offense.

39 (9) The injury to or death of the victim of the offense was the
 40 result of shaken baby syndrome (as defined in IC 16-41-40-2) or
 41 abusive head trauma.

42 (10) The person threatened to harm the victim of the offense or



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a witness if the victim or witness told anyone about the offense.

(11) The person:

(A) committed trafficking with an inmate under IC 35-44.1-3-5; and

(B) is an employee of the penal facility.

(12) The person committed the offense with bias due to the victim's or the group's real or perceived characteristic, trait, belief, practice, association, or other attribute the court chooses to consider, including but not limited to an attribute described in IC 10-13-3-1.

(13) The person is or has been an alien (as defined by 8 U.S.C. 1101(a)) unlawfully present in the United States. A determination by the United States Department of Homeland Security that an alien has come to, entered, or remained in the United States in violation of law is evidence that the alien is or has been unlawfully present in the United States.

(14) The offense involved dealing in a controlled substance under IC 35-48-4 and the person distributed the controlled substance to at least three (3) different individuals in a one hundred eighty (180) day period.

(15) The person:

(A) committed the offense while wearing a mask;
and

(B) wore the mask with the intent to intimidate the victim, a witness, or any other person.

(b) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:

(1) The crime neither caused nor threatened serious harm to persons or property, or the person did not contemplate that it would do so.

(2) The crime was the result of circumstances unlikely to recur.

(3) The victim of the crime induced or facilitated the offense.

(4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.

(5) The person acted under strong provocation.

(6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.

(7) The person is likely to respond affirmatively to probation or short term imprisonment.

(8) The character and attitudes of the person indicate that the



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person is unlikely to commit another crime.

(9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.

(10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.

(11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the victim of the crime for which the person was convicted.

(12) The person was convicted of a crime relating to a controlled substance and the person's arrest or prosecution was facilitated in part because the person:

(A) requested emergency medical assistance; or

(B) acted in concert with another person who requested emergency medical assistance;

for an individual who reasonably appeared to be in need of medical assistance due to the use of alcohol or a controlled substance.

(13) The person has posttraumatic stress disorder, traumatic brain injury, or a postconcussive brain injury.

(14) The person is a person described in IC 31-30-1-4(d) who committed the offense while the person was a child but is now at least twenty-one (21) years of age.

(15) The offense involved a controlled substance under IC 35-48-4 and the person:

(A) sought treatment:

(i) in the three hundred sixty-five (365) day period preceding the date of the commission of the offense; or

(ii) on or after the date on which the person committed the offense, but before sentencing; and

(B) successfully completed treatment:

(i) in the three hundred sixty-five (365) day period preceding the date of the commission of the offense; or

(ii) on or after the date on which the person committed the offense, but before sentencing.

(c) The criteria listed in subsections (a) and (b) do not limit the matters that the court may consider in determining the sentence.

(d) A court may impose any sentence that is:

(1) authorized by statute; and

(2) permissible under the Constitution of the State of Indiana;



1 regardless of the presence or absence of aggravating circumstances or
2 mitigating circumstances.

3 (e) If a court suspends a sentence and orders probation for a person
4 described in subsection (b)(13), the court may require the person to
5 receive treatment for the person's injuries. [\[](#)

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