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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:

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

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

2026

IN 160—LS 6439/DI 106



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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:

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.

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
22 the person committed the offense; or
23 (ii) is not the victim of the offence.

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

32 (7) The victim of the offense was:

(A) a person with a disability (as defined in IC 27-7-6-12),
and the defendant knew or should have known that the
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.



1 a witness if the victim or witness told anyone about the offense.
 2

3 (11) The person:
 4

5 (A) committed trafficking with an inmate under
 6 IC 35-44.1-3-5; and
 7

8 (B) is an employee of the penal facility.
 9

10 (12) The person committed the offense with bias due to the
 11 victim's or the group's real or perceived characteristic, trait,
 12 belief, practice, association, or other attribute the court chooses
 13 to consider, including but not limited to an attribute described in
 14 IC 10-13-3-1.
 15

16 (13) The person is or has been an alien (as defined by 8 U.S.C.
 17 1101(a)) unlawfully present in the United States. A
 18 determination by the United States Department of Homeland
 19 Security that an alien has come to, entered, or remained in the
 20 United States in violation of law is evidence that the alien is or
 21 has been unlawfully present in the United States.
 22

23 (14) The offense involved dealing in a controlled substance
 24 under IC 35-48-4 and the person distributed the controlled
 25 substance to at least three (3) different individuals in a one
 26 hundred eighty (180) day period.
 27

28 (15) The person:
 29

30 (A) committed the offense while wearing a mask
 31 and
 32 (B) wore the mask with the intent to intimidate the
 33 victim, a witness, or any other person.
 34

35 (b) The court may consider the following factors as mitigating
 36 circumstances or as favoring suspending the sentence and imposing
 37 probation:
 38

39 (1) The crime neither caused nor threatened serious harm to
 40 persons or property, or the person did not contemplate that it
 41 would do so.
 42

43 (2) The crime was the result of circumstances unlikely to recur.
 44 (3) The victim of the crime induced or facilitated the offense.
 45 (4) There are substantial grounds tending to excuse or justify the
 46 crime, though failing to establish a defense.
 47

48 (5) The person acted under strong provocation.
 49

50 (6) The person has no history of delinquency or criminal activity,
 51 or the person has led a law-abiding life for a substantial period
 52 before commission of the crime.
 53 (7) The person is likely to respond affirmatively to probation or
 54 short term imprisonment.
 55

56 (8) The character and attitudes of the person indicate that the
 57



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 controlled

13 substance and the person's arrest or prosecution was facilitated

14 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 (13) The person has posttraumatic stress disorder, traumatic

22 brain injury, or a postconcussive brain injury.

23 (14) The person is a person described in IC 31-30-1-4(d) who

24 committed the offense while the person was a child but is now

25 at least twenty-one (21) years of age.

26 (15) The offense involved a controlled substance under

27 IC 35-48-4 and the person:

28 (A) sought treatment:

29 (i) in the three hundred sixty-five (365) day period

30 preceding the date of the commission of the offense; or

31 (ii) on or after the date on which the person committed

32 the offense, but before sentencing; and

33 (B) successfully completed treatment:

34 (i) in the three hundred sixty-five (365) day period

35 preceding the date of the commission of the offense; or

36 (ii) on or after the date on which the person committed

37 the offense, but before sentencing.

38 (c) The criteria listed in subsections (a) and (b) do not limit the

39 matters that the court may consider in determining the sentence.

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

41 (1) authorized by statute; and

42 (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.[\[1\]](#)

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2026

IN 160—LS 6439/DI 106



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