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SENATE BILL No. 160

Proposed Changes to January 21, 2026 printing by AM016004

DIGEST OF PROPOSED AMENDMENT

Cross reference. Specifies that the definition of refuse applies to malicious littering.

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 or device worn over the face for**
5 **the purpose of concealing or disguising the wearer's identity.**
6 [SECTION 2. IC 35-31.5-2-273.2, AS ADDED BY P.L.13-2013,
7 SECTION 129, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2026]: Sec. 273.2. "Refuse", for purposes of
9 IC 35-45-3-2 and IC 35-45-3-4, has the meaning set forth in
10 IC 35-45-3-2(b).
11] SECTION ~~16~~ [3]. IC 35-38-1-7.1, AS AMENDED BY
12 P.L.218-2025, SECTION 16, IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 7.1. (a) In determining
14 what sentence to impose for a crime, the court may consider the
15 following aggravating circumstances:
16 (1) The harm, injury, loss, or damage suffered by the victim of
17 an offense was:
18 (A) significant; and
19 (B) greater than the elements necessary to prove the
20 commission of the offense.

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- 1 (2) The person has a history of criminal or delinquent behavior.
 2 (3) The victim of the offense was less than twelve (12) years of
 3 age or at least sixty-five (65) years of age at the time the person
 4 committed the offense.
 5 (4) The person:
 6 (A) committed a crime of violence (IC 35-50-1-2); and
 7 (B) knowingly committed the offense in the presence or
 8 within hearing of an individual who:
 9 (i) was less than eighteen (18) years of age at the time
 10 the person committed the offense; and
 11 (ii) is not the victim of the offense.
 12 (5) The person violated a protective order issued against the
 13 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
 14 IC 34-4-5.1 before their repeal), a workplace violence restraining
 15 order issued against the person under IC 34-26-6, or a no contact
 16 order issued against the person.
 17 (6) The person has recently violated the conditions of any
 18 probation, parole, pardon, community corrections placement, or
 19 pretrial release granted to the person.
 20 (7) The victim of the offense was:
 21 (A) a person with a disability (as defined in IC 27-7-6-12),
 22 and the defendant knew or should have known that the
 23 victim was a person with a disability; or
 24 (B) mentally or physically infirm.
 25 (8) The person was in a position having care, custody, or control
 26 of the victim of the offense.
 27 (9) The injury to or death of the victim of the offense was the
 28 result of shaken baby syndrome (as defined in IC 16-41-40-2) or
 29 abusive head trauma.
 30 (10) The person threatened to harm the victim of the offense or
 31 a witness if the victim or witness told anyone about the offense.
 32 (11) The person:
 33 (A) committed trafficking with an inmate under
 34 IC 35-44.1-3-5; and
 35 (B) is an employee of the penal facility.
 36 (12) The person committed the offense with bias due to the
 37 victim's or the group's real or perceived characteristic, trait,
 38 belief, practice, association, or other attribute the court chooses
 39 to consider, including but not limited to an attribute described in
 40 IC 10-13-3-1.
 41 (13) The person is or has been an alien (as defined by 8 U.S.C.
 42 1101(a)) unlawfully present in the United States. A

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- 1 determination by the United States Department of Homeland
- 2 Security that an alien has come to, entered, or remained in the
- 3 United States in violation of law is evidence that the alien is or
- 4 has been unlawfully present in the United States.
- 5 (14) The offense involved dealing in a controlled substance
- 6 under IC 35-48-4 and the person distributed the controlled
- 7 substance to at least three (3) different individuals in a one
- 8 hundred eighty (180) day period.
- 9 **(15) The person committed the offense while wearing a mask.**
- 10 (b) The court may consider the following factors as mitigating
- 11 circumstances or as favoring suspending the sentence and imposing
- 12 probation:
- 13 (1) The crime neither caused nor threatened serious harm to
- 14 persons or property, or the person did not contemplate that it
- 15 would do so.
- 16 (2) The crime was the result of circumstances unlikely to recur.
- 17 (3) The victim of the crime induced or facilitated the offense.
- 18 (4) There are substantial grounds tending to excuse or justify the
- 19 crime, though failing to establish a defense.
- 20 (5) The person acted under strong provocation.
- 21 (6) The person has no history of delinquency or criminal activity,
- 22 or the person has led a law-abiding life for a substantial period
- 23 before commission of the crime.
- 24 (7) The person is likely to respond affirmatively to probation or
- 25 short term imprisonment.
- 26 (8) The character and attitudes of the person indicate that the
- 27 person is unlikely to commit another crime.
- 28 (9) The person has made or will make restitution to the victim of
- 29 the crime for the injury, damage, or loss sustained.
- 30 (10) Imprisonment of the person will result in undue hardship to
- 31 the person or the dependents of the person.
- 32 (11) The person was convicted of a crime involving the use of
- 33 force against a person who had repeatedly inflicted physical or
- 34 sexual abuse upon the convicted person and evidence shows that
- 35 the convicted person suffered from the effects of battery as a
- 36 result of the past course of conduct of the individual who is the
- 37 victim of the crime for which the person was convicted.
- 38 (12) The person was convicted of a crime relating to a controlled
- 39 substance and the person's arrest or prosecution was facilitated
- 40 in part because the person:
- 41 (A) requested emergency medical assistance; or
- 42 (B) acted in concert with another person who requested

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- 1 emergency medical assistance;
 2 for an individual who reasonably appeared to be in need of
 3 medical assistance due to the use of alcohol or a controlled
 4 substance.
 5 (13) The person has posttraumatic stress disorder, traumatic
 6 brain injury, or a postconcussive brain injury.
 7 (14) The person is a person described in IC 31-30-1-4(d) who
 8 committed the offense while the person was a child but is now
 9 at least twenty-one (21) years of age.
 10 (15) The offense involved a controlled substance under
 11 IC 35-48-4 and the person:
 12 (A) sought treatment:
 13 (i) in the three hundred sixty-five (365) day period
 14 preceding the date of the commission of the offense; or
 15 (ii) on or after the date on which the person committed
 16 the offense, but before sentencing; and
 17 (B) successfully completed treatment:
 18 (i) in the three hundred sixty-five (365) day period
 19 preceding the date of the commission of the offense; or
 20 (ii) on or after the date on which the person committed
 21 the offense, but before sentencing.
 22 (c) The criteria listed in subsections (a) and (b) do not limit the
 23 matters that the court may consider in determining the sentence.
 24 (d) A court may impose any sentence that is:
 25 (1) authorized by statute; and
 26 (2) permissible under the Constitution of the State of Indiana;
 27 regardless of the presence or absence of aggravating circumstances or
 28 mitigating circumstances.
 29 (e) If a court suspends a sentence and orders probation for a person
 30 described in subsection (b)(13), the court may require the person to
 31 receive treatment for the person's injuries.
 32 SECTION ↔ [4]. IC 35-45-3-4 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2026]: **Sec. 4. A person who places or leaves**
 35 **refuse on the property of another person, with the intent to cause:**
 36 **(1) the owner or occupant of the property;**
 37 **(2) an invitee of the owner or occupant of the property; or**
 38 **(3) a family member or person closely associated with a**
 39 **person described in subdivision (1) or (2);**
 40 **to reasonably fear for their physical safety, commits malicious**
 41 **littering, a Class A misdemeanor.**

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