



POLICE / PROSECUTOR UPDATE

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This month we will briefly look at new legislation of interest to Indiana law enforcement.

IC 9-30-5-1 was amended to provide that operating a vehicle with a BAC of .10% but less than .15% is a Class C misdemeanor. Operating with a BAC of at least .15% is a Class A misdemeanor. Effective July 1, 2000.

IC 35-42-2-1.3 was added to create the Class A misdemeanor of domestic battery. It applies to a person who: is or was a spouse of the victim; is or was living as if a spouse of the victim; or has a child in common with the victim. It is a Class D felony upon a second conviction under this section. The domestic battery language was removed from the battery statute, **IC 35-42-2-1**. Effective July 1, 1999.

IC 35-48-4-6 was amended to provide that possession of cocaine or a schedule I or II narcotic drug is a Class C felony if the person also possesses a firearm. Effective July 1, 1999.

The arson statute, **IC 35-43-1-1**, was amended to add damage to a "structure used for religious worship" as constituting arson.

IC 35-43-2-1 was amended to provide that burglary is also a Class B felony if the building or structure involved is a "structure used for religious worship" (currently only a dwelling qualifies). Effective July 1, 1999.

IC 35-48-4-14.5 was added (the "meth lab" statute). It creates a Class D felony for possession of 2 or more chemical reagents or precursors (listed in the statute) with the intent to manufacture: methcathinone; methamphetamine; amphetamine; or phentermine. Effective July 1, 1999.

IC 35-47-4-5 was added to create the status of "serious violent felon." The statute lists 26 felonies which constitute "serious violent felonies." Provides that possession of a firearm by a serious violent felon is a Class B felony. This same law also repealed **IC 35-47-4-4** (the "black powder and antique firearm" statute). Effective July 1, 1999.

IC 35-44-3-9 was amended to include juvenile facilities, as well as penal facilities, within the trafficking with an inmate offense. Effective July 1, 1999.

IC 35-42-2-1 was amended with regard to the Class D felony of battery on a school employee. The amendment removes the requirement that the battery occur on school property, within 1,000 feet of school property, or on a school bus. Effective July 1, 1999.

IC 35-42-2-5.5 was added to create the Class D felony of railroad mischief for certain types of damage to railroad

property or equipment. The offense is a Class C felony if it results in serious bodily injury to another person and a Class B felony if it results in the death of another person. The criminal trespass statute, **IC 35-43-2-2**, was amended to include railroad trespass. It also lists persons who are exempt from railroad trespass. Effective July 1, 1999.

IC 35-43-1-2 (criminal mischief) was amended to remove damage to a cemetery or a facility used for memorializing the dead as constituting this crime. **IC 35-43-1-2.1** was added to create the separate offense of cemetery mischief, a Class A misdemeanor (Class D felony if the pecuniary loss is at least \$2,500). This crime is committed by damaging a cemetery or facility used for memorializing the dead, by damaging the grounds owned or rented by a cemetery or facility used for memorializing the dead, or by disturbing, defacing, or damaging a cemetery monument, grave marker, grave artifact, grave ornamentation, or cemetery enclosure. Effective July 1, 1999.

The tattooing statute, **IC 35-42-2-7**, was amended to create the crime of body piercing, a Class A misdemeanor. As with tattooing, body piercing must be performed on a person less than 18 years old to be criminal. Also, body piercing is not criminal if the child's parent or legal guardian is present when it is performed and provides written permission for the procedure. Effective July 1, 1999.

IC 9-13-2-200 was amended to include within the term "worksite," the lanes of a highway leading up to the area where construction is being performed, beginning at the point where signs directing vehicles to merge from one lane to another are posted. **IC 9-21-8-7.5** was added to prohibit a vehicle from passing another vehicle that is in the lane into which traffic is directed to merge within the posted no passing zone. This is a Class C infraction. This infraction applies only on a highway divided into two or more marked lanes for traffic moving in the same direction. Effective July 1, 1999.

IC 9-21-8-35 was amended to require a vehicle approaching a stationary authorized emergency vehicle with its emergency lights flashing to move into a lane not adjacent to that of the emergency vehicle, or if this cannot be safely done, to reduce speed. This is a Class A infraction pursuant to IC 9-21-8-54. Effective July 1, 1999.

This is a publication of the Clark County Prosecuting Attorney, covering various topics of interest to law enforcement officers. It is directed solely toward issues of evidence, criminal law and procedure. Please consult your city, town, or county attorney for legal advice relating to civil liability. Please direct any suggestions you may have for future issues to Steve Stewart at 285-6264 or prosatty@aye.net.