



POLICE / PROSECUTOR UPDATE

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This issue will examine some new legislation of interest to law enforcement. All amended or new legislation is effective **July 1, 2000**.

Last November, to correct an ambiguity in offenses dealing with the operation of vehicles or boats with alcohol in the operator's blood or breath, the legislature added the concept of **alcohol concentration equivalent** to the law. This phrase means "the alcohol concentration in a person's blood or breath determined from a test of a sample of the person's blood or breath." It is no longer accurate to refer to blood alcohol content as a *percentage* of alcohol by weight in grams in a person's blood or breath.

IC 9-30-5-1 (the *per se* statute) is amended to provide that a person who operates a vehicle with an alcohol concentration equivalent to **0.10 gram** of alcohol but less than **0.15 gram** of alcohol per 100 milliliters of the person's blood or 210 liters of the person's breath commits a Class C misdemeanor. The offense is a Class A misdemeanor if the person's alcohol concentration equivalent is at least **0.15 gram** of alcohol per 100 milliliters of the person's blood or 210 liters of the person's breath.

It has been the law in Indiana for many years that a murder prosecution could not be brought unless the victim's death occurred within a year and a day of the act causing death. **IC 35-41-4-2** has been amended to now provide that a murder prosecution can be commenced regardless of the amount of time that passes between "the date a person allegedly commits the elements of murder and the date the alleged victim of the murder dies."

The battery statute (**IC 35-42-2-1**) is amended to increase the penalty for battery if it is committed against a firefighter while engaged in the execution of the firefighter's duty or if it results in bodily injury to a firefighter while engaged in the execution of the firefighter's duty.

IC 35-33-1-1 (which provides the legal authority for arrests) is amended to provide that a law enforcement officer may make an arrest for the Class A misdemeanor of domestic battery (**IC 35-42-2-1.3**) not committed in the officer's presence so long as the officer has probable cause to believe the person arrested committed that offense.

A new statute is enacted, **IC 35-47-4.5**, regulating laser pointers. Makes it a Class B misdemeanor to knowingly or intentionally direct light amplified by the stimulated emission of radiation that is visible to the human eye, or any other electromagnetic radiation, from a laser pointer at a public safety officer without the consent of the public safety officer. Lists those officers who are public safety officers for purposes of this offense. Also, lists certain uses of a laser pointer that are not criminal.

IC 35-47-5-9 is amended to make it a Class C felony for a person to operate a machine gun or to hurl, drop, **place, or detonate** a bomb. **IC 35-41-1-4.3** defines bomb statutorily for the first time. "Bomb" means an explosive or incendiary device designed to release 1) destructive materials or force, or 2) dangerous gases. The device is detonated by impact, proximity to an object, a timing mechanism, a chemical reaction, ignition, or other predetermined means. The statute also lists certain devices which are not bombs. **IC 35-41-1-6.6** defines "dangerous gas" for purposes of a bomb. Excludes certain agents, materials, and products from the definition of dangerous gas.

IC 35-45-4-1 is amended to provide that public indecency is a Class D felony if it is committed in a public park, in or on school property, or in department of natural resources owned or managed property, and the person has a prior unrelated conviction for public indecency that was *entered* after June 30, 2000.

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.