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## Public Safety Committee

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### HB 2454

**Brief Description:** Modifying vehicular assault provisions.

**Sponsors:** Representatives Blake, Muri and Barkis.

#### Brief Summary of Bill

- Establishes additional grounds for committing an offense of Vehicular Assault, applicable when a person operating a vehicle causes substantial bodily harm to a vulnerable user of a public way.

**Hearing Date:** 1/29/18

**Staff:** Omeara Harrington (786-7136).

#### **Background:**

##### Felony Sentencing.

When a person is convicted of a ranked felony, the Sentencing Reform Act (SRA) applies and determines a specific sentence range within the statutory maximum. Sentences for felony offenses are determined by reference to a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. A felony not included on the seriousness level table is referred to an "unranked" felony. A court imposing a sentence for an unranked felony must impose a determinate sentence which may include zero to 365 days of confinement.

##### Vehicular Assault.

A person commits the crime of Vehicular Assault if he or she operates or drives any vehicle in a reckless manner, while under the influence of intoxicating liquor or any drug, or with disregard for the safety of others, and causes substantial bodily harm to another person. Substantial bodily harm means bodily injury that: involves temporary but substantial disfigurement; causes a

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temporary but substantial loss or impairment of the function of any bodily part or organ; or causes a fracture of any body part.

Vehicular Assault is a class B felony. If committed on grounds of disregard for the safety of others, it is a seriousness level III offense, carrying a presumptive range of one to three months on the low end, to 51 to 68 months on the high end. If committed on grounds of intoxication or recklessness, it is a seriousness level IV offense, carrying a presumptive range of three to nine months on the low end, to 63 to 84 months on the high end.

Negligent Driving in the Second Degree with a Vulnerable User Victim.

Depending on the circumstances, a person may either be convicted of a crime or receive a traffic infraction for operating a motor vehicle in a negligent manner. "Negligent" is defined as the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

A person commits Negligent Driving in the second degree with a Vulnerable User Victim if he or she operates a vehicle in a manner that is both negligent and endangers, or is likely to endanger, a person or property, and proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way. A "vulnerable user of a public way" includes any pedestrian or person riding an animal; or any person operating, on a public way, a farm tractor or implement of husbandry, without an enclosed shell; bicycle; electric-assisted bicycle; electric personal assistive mobility device; moped; motor-driven cycle; motorized foot scooter; or motorcycle.

Negligent Driving in the second degree with a Vulnerable User Victim is a traffic infraction carrying a \$5,000 fine, which may not be reduced below \$1,000, and a 90 day driving privilege suspension. If a person requests and personally appears for a hearing, the court may impose an alternative penalty where the person is required to: pay a fine of \$250; complete traffic school for a number of days determined by the court; and perform community service related to driver improvement for a number of hours determined by the court.

If the conduct providing the basis for a Negligent Driving traffic infraction also constitutes a crime under any other law, the person may face a separate criminal prosecution.

**Summary of Bill:**

The Leprechaun Cain Act is enacted.

In addition to existing grounds, a person commits the crime of Vehicular Assault if he or she operates or drives any vehicle and causes substantial bodily harm to a vulnerable user of a public way. Vehicular Assault committed on these grounds is an unranked class B felony.

**Appropriation:** None.

**Fiscal Note:** Requested on January 26, 2018.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.