

Adopted Rejected

COMMITTEE REPORT

YES: 12
NO: 0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred Senate Bill 264, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-10-10-5 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) The special death
- 5 benefit fund is established for the purpose of paying lump sum death
- 6 benefits under section 6 of this chapter. The fund consists of the fees
- 7 remitted to the auditor of state under ~~IC 35-33-8-3.1~~. **IC 35-33-8-3.2.**
- 8 The fund shall be administered by the board. The expenses of
- 9 administering the fund shall be paid from money in the fund.
- 10 (b) The board shall invest the money in the fund not currently
- 11 needed to meet the obligations of the fund in the same manner as the
- 12 board's other funds may be invested. Interest that accrues from these
- 13 investments shall be deposited in the fund.
- 14 (c) Money in the fund at the end of a state fiscal year does not
- 15 revert to the state general fund.
- 16 SECTION 2. IC 11-12-5-2.5 IS ADDED TO THE INDIANA

- 1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 1998]: **Sec. 2.5. (a) As used in this section,**
 3 **"crew" refers to a county inmate public works crew formed by a**
 4 **county sheriff under this section.**
- 5 **(b) The county sheriff may establish a program that allows**
 6 **persons who have been committed to the county jail upon:**
- 7 **(1) conviction of a crime; or**
 8 **(2) adjudication of contempt;**
 9 **to be temporarily released from custody to work on a crew under**
 10 **this section.**
- 11 **(c) A person is:**
- 12 **(1) eligible to participate on a crew if:**
- 13 **(A) the person volunteers to work on the crew;**
 14 **(B) the person:**
- 15 **(i) is assigned to credit Class I as described in**
 16 **IC 35-50-6; or**
 17 **(ii) has not been assigned to a credit class as**
 18 **described in IC 35-50-6 but is otherwise considered**
 19 **eligible for temporary release under this section by**
 20 **the county sheriff; and**
- 21 **(C) the county sheriff does not consider the person to be**
 22 **a risk to the safety of the community; and**
- 23 **(2) not eligible to participate on a crew if:**
- 24 **(A) the person has been committed to the department of**
 25 **correction;**
 26 **(B) the sentencing or committing court disapproves of**
 27 **the person's release; or**
 28 **(C) the person has been convicted of:**
- 29 **(i) a violent crime (as defined in IC 5-2-6.1-8);**
 30 **(ii) a forcible felony (as defined in IC 35-41-1-11);**
 31 **or**
 32 **(iii) a sex offense under IC 35-42-4 or IC 35-46-1-3.**
- 33 **(d) The county sheriff:**
- 34 **(1) may select those persons who are eligible under this**
 35 **section to participate on a crew formed by the sheriff;**
 36 **(2) shall require persons to dress in distinctive county jail**
 37 **uniforms while performing work on a crew;**
 38 **(3) shall personally supervise or assign a deputy sheriff to**

1 supervise a crew; and
 2 (4) may require a crew to perform any work the sheriff
 3 determines to be:

- 4 (A) appropriate; and
 5 (B) of benefit to the community.

6 (e) A person who participates on a crew is not eligible to
 7 receive worker's compensation benefits as a result of any injury
 8 sustained during the person's participation on the crew.

9 (f) A crew or a person who participates on a crew may not
 10 perform any public work (as defined in IC 36-1-12-2).

11 SECTION 3. IC 35-33-8-3.2 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 1998]: Sec. 3.2. (a) A court may admit a
 14 defendant to bail and impose any of the following conditions to
 15 assure the defendant's appearance at any stage of the legal
 16 proceedings, or, upon a showing of clear and convincing evidence
 17 that the defendant poses a risk of physical danger to another
 18 person or the community, to assure the public's physical safety:

- 19 (1) Require the defendant to:
 20 (A) execute a bail bond with sufficient solvent sureties;
 21 (B) deposit cash or securities in an amount equal to the
 22 bail; or
 23 (C) execute a bond.

24 The defendant must also pay the fee required by subsection
 25 (d).

26 (2) Require the defendant to execute a bail bond by
 27 depositing cash or securities with the clerk of the court in an
 28 amount not less than ten percent (10%) of the bail. If the
 29 defendant is convicted, the court may retain all or a part of
 30 the cash or securities to pay fines, costs, fees, and restitution,
 31 if ordered by the court. A portion of the deposit, not to
 32 exceed ten percent (10%) of the monetary value of the
 33 deposit or fifty dollars (\$50), whichever is the lesser amount,
 34 may be retained as an administrative fee. The clerk shall also
 35 retain from the deposit the following:

- 36 (A) The fee required by subsection (d).
 37 (B) Fines, costs, fees, and restitution as ordered by the
 38 court.

1 (C) Publicly paid costs of representation that shall be
2 disposed of in accordance with subsection (b).

3 The individual posting bail for the defendant or the
4 defendant admitted to bail under this subdivision must be
5 notified by the sheriff, court, or clerk that the defendant's
6 deposit may be forfeited under section 7 of this chapter or
7 retained under subsection (b).

8 (3) Impose reasonable restrictions on the activities,
9 movements, associations, and residence of the defendant
10 during the period of release.

11 (4) Require the defendant to refrain from any direct or
12 indirect contact with an individual.

13 (5) Place the defendant under the reasonable supervision of
14 a probation officer or other appropriate public official.

15 (6) Release the defendant into the care of a qualified person
16 or organization responsible for supervising the defendant
17 and assisting the defendant in appearing in court. The
18 supervisor shall maintain reasonable contact with the
19 defendant in order to assist the defendant in making
20 arrangements to appear in court and, where appropriate,
21 shall accompany the defendant to court. The supervisor need
22 not be financially responsible for the defendant.

23 (7) Release the defendant on personal recognizance where
24 the defendant shows little risk:

25 (A) of nonappearance; or

26 (B) to the physical safety of the public.

27 (8) Impose any other reasonable restrictions designed to
28 assure the defendant's presence in court or the physical
29 safety of another person or the community.

30 (b) Within thirty (30) days after disposition of the charges
31 against the defendant, the court that admitted the defendant to bail
32 shall order the clerk to remit the amount of the deposit remaining
33 under subsection (a)(2) to the defendant. The portion of the deposit
34 that is not remitted to the defendant shall be deposited by the clerk
35 in the supplemental public defender services fund established
36 under IC 33-9-11.5.

37 (c) For purposes of subsection (b), "disposition" occurs when
38 the indictment or information is dismissed, or the defendant is

1 **acquitted or convicted of the charges.**

2 **(d) Except as provided by subsection (e), the clerk of the court**
3 **shall:**

4 **(1) collect a fee of five dollars (\$5) for each bond or deposit**
5 **under subsection (a)(1); and**

6 **(2) retain a fee of five dollars (\$5) from each deposit under**
7 **subsection (a)(2).**

8 **The clerk of the court shall semiannually remit these fees to the**
9 **board of trustees of the public employees' retirement fund for**
10 **deposit into the special death benefit fund. The fee required by**
11 **subdivision (2) is in addition to the administrative fee retained**
12 **under subsection (a)(2). This subsection expires December 31,**
13 **1998.**

14 **(e) With the approval of the clerk of the court, the county**
15 **sheriff may collect the bail and fees required by subsection (d). The**
16 **county sheriff shall remit the bail to the clerk of the court by the**
17 **following business day and remit monthly the five dollar (\$5)**
18 **special death benefit fee to the county auditor.**

19 **(f) When a court imposes a condition of bail described in**
20 **subsection (a)(4):**

21 **(1) the clerk of the court shall comply with IC 5-2-9; and**

22 **(2) the prosecuting attorney shall file a confidential form**
23 **prescribed or approved by the division of state court**
24 **administration with the clerk."**

25 Page 2, between lines 28 and 29, begin a new paragraph and
26 insert:

27 "SECTION 5. IC 35-33-8-7 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) If a defendant:

29 (1) was admitted to bail under section ~~3-1(a)(2)~~ **3.2(a)(2)** of this
30 chapter; and

31 (2) has failed to appear before the court as ordered;

32 the court shall issue a warrant for the defendant's arrest.

33 (b) In a criminal case, if the court having jurisdiction over the
34 criminal case receives written notice of a pending civil action or
35 unsatisfied judgment against the criminal defendant arising out of the
36 same transaction or occurrence forming the basis of the criminal case,
37 funds deposited with the clerk of the court under section ~~3-1(a)(2)~~
38 **3.2(a)(2)** of this chapter may not be declared forfeited by the court, and

1 the court shall order the deposited funds to be held by the clerk. If there
 2 is an entry of final judgment in favor of the plaintiff in the civil action,
 3 and if the deposit and the bond are subject to forfeiture, the criminal
 4 court shall order payment of all or any part of the deposit to the
 5 plaintiff in the action, as is necessary to satisfy the judgment. The court
 6 shall then order the remainder of the deposit, if any, and the bond
 7 forfeited.

8 (c) Any proceedings concerning the bond, or its forfeiture,
 9 judgment, or execution of judgment, shall be held in the court that
 10 admitted the defendant to bail.

11 (d) After a bond has been forfeited under subsection (b), the clerk
 12 shall mail notice of forfeiture to the defendant. In addition, unless the
 13 court finds that there was justification for the defendant's failure to
 14 appear, the court shall immediately enter judgment, without pleadings
 15 and without change of judge or change of venue, against the defendant
 16 for the amount of the bail bond, and the clerk shall record the
 17 judgment.

18 (e) If a bond is forfeited and the court has entered a judgment
 19 under subsection (d), the clerk shall transfer to the state common
 20 school fund:

- 21 (1) any amount remaining on deposit with the court (less the fees
- 22 retained by the clerk); and
- 23 (2) any amount collected in satisfaction of the judgment.

24 (f) The clerk shall return a deposit, less the administrative fee,
 25 made under section ~~3.1(a)(2)~~ **3.2(a)(2)** of this chapter to the defendant,
 26 if the defendant appeared at trial and the other critical stages of the
 27 legal proceedings.

28 SECTION 6. IC 35-33-8-8 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) If a defendant
 30 was admitted to bail under ~~section 3.1(a)~~ **section 3.2(a)** of this chapter
 31 and the defendant has knowingly and intentionally failed to appear
 32 before the court as ordered, the court:

- 33 (1) shall issue a warrant for the defendant's arrest;
- 34 (2) may not release the defendant on personal recognizance; and
- 35 (3) may not set bail for the rearrest of the defendant on the
- 36 warrant at an amount that is less than the greater of:
 - 37 (A) the amount of the original bail; or
 - 38 (B) two thousand five hundred dollars (\$2,500);

1 in the form of a bond issued by an entity defined in IC 27-10-1-7
2 or the full amount of the bond in cash.

3 (b) In a criminal case, if the court having jurisdiction over the
4 criminal case receives written notice of a pending civil action or
5 unsatisfied judgment against the criminal defendant arising out of the
6 same transaction or occurrence forming the basis of the criminal case,
7 funds deposited with the clerk of the court under section ~~3.1(a)(1)~~
8 **3.2(a)(2)** of this chapter may not be declared forfeited by the court, and
9 the court shall order the deposited funds to be held by the clerk. If there
10 is an entry of final judgment in favor of the plaintiff in the civil action,
11 and if the deposit is subject to forfeiture, the criminal court shall order
12 payment of all or any part of the deposit to the plaintiff in the action, as
13 is necessary to satisfy the judgment. The court shall then order the
14 remainder of the deposit, if any, forfeited.

15 SECTION 7. IC 35-33-8-3.1 IS REPEALED [EFFECTIVE JULY
16 1, 1998].".

17 Renumber all SECTIONS consecutively.

(Reference is to SB 264 as printed January 30, 1998.)

and when so amended that said bill do pass.

Representative Dvorak