

# HOUSE BILL No. 1384

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-38-3.5.

**Synopsis:** Conditional early release. Allows a county jail to release from imprisonment a person convicted of a misdemeanor that did not involve bodily injury if the person posts a surety bond payable to the county and revocable upon a violation of any of the conditions placed upon the person's release.

**Effective:** July 1, 1998.

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M. Smith

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January 13, 1998, read first time and referred to Committee on Public Safety.

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Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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# HOUSE BILL No. 1384



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 35-38-3.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 1998]:  
4 **Chapter 3.5. Conditional Early Release**  
5 **Sec. 1. This chapter applies to a person who is:**  
6 (1) **convicted of a misdemeanor that did not involve bodily**  
7 **injury; and**  
8 (2) **confined in a county jail.**  
9 **Sec. 2. As used in this chapter, "bond" means the written**  
10 **undertaking delivered by a surety to a releasing authority and**  
11 **describing the terms and conditions of the surety's duties.**  
12 **Sec. 3. As used in this chapter, "breach" means violation by a**  
13 **participant of a condition of release.**  
14 **Sec. 4. As used in this chapter, "breach penalty" means the**  
15 **amount of money to be paid to a county by a surety upon**  
16 **revocation of a bond under this chapter. The breach penalty is fifty**  
17 **percent (50%) of the annual charge collected by the surety for the**



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**bond.**

**Sec. 5.** As used in this chapter, "charge" means the amount of money the surety charges to write the bond.

**Sec. 6.** As used in this chapter, "condition" refers to a condition that the releasing authority may impose on a participant as a requirement for early release from confinement.

**Sec. 7.** As used in this chapter, "major penalty" means a penalty of at least fifteen thousand dollars (\$15,000).

**Sec. 8.** As used in this chapter, "mandatory conditions" refers to conditions a releasing authority places upon a participant as a requirement for early release from confinement.

**Sec. 9.** As used in this chapter, "participant" means a person released from confinement under this chapter who has been convicted of a misdemeanor that did not involve bodily injury.

**Sec. 10.** As used in this chapter, "releasing authority" means a local governmental unit having legal authority to release a confined person to probation. The term includes a county sheriff.

**Sec. 11.** As used in this chapter, "revocation of bond" means the use and effectiveness of a bond has expired, and the bond has been revoked under section 17 of this chapter.

**Sec. 12.** As used in this chapter, "surety" means a person licensed under IC 27-10 to execute bonds filed in criminal cases.

**Sec. 13. (a)** Upon the decision of a releasing authority to return a participant to society, the releasing authority may release the participant by requiring the posting of an early release bond by a surety.

**(b)** The releasing authority shall establish the conditions of a participant's release. The conditions imposed on the participant must include the following:

**(1)** Payment by the participant of the surety's charge in an amount not less than fifteen percent (15%) of the major penalty amount. The charge is fully earned when the bond is written.

**(2)** Personal reporting by the participant to the surety as directed by the releasing authority and the surety.

**(c)** In addition to the mandatory conditions of release described in subsection (b), the releasing authority may impose any of the following conditions:

**(1)** Drug and alcohol testing as specified by the releasing authority.

**(2)** Participation in specified recovery programs.

**(3)** No contact or direct communication with a witness of the

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- 1 participant's crime.
- 2 (4) No contact or direct or indirect communication with a
- 3 victim of the participant's crime.
- 4 (5) Obtaining and maintaining employment.
- 5 (6) Home detention using electronic monitoring devices
- 6 under IC 35-38-2.5.
- 7 (7) Travel restrictions.
- 8 (8) Periodic restitution payments.
- 9 (9) Community service.
- 10 (10) Participation in, and completion of, education courses.
- 11 (d) Conditions of release imposed on a participant under this
- 12 section must be appended to and made a part of the bond.
- 13 **Sec. 14. The releasing authority may:**
- 14 (1) revoke a bond upon a breach; or
- 15 (2) revoke a bond at any time upon a determination by the
- 16 releasing authority that the participant is not abiding by the
- 17 conditions of the bond.
- 18 **Sec. 15. An early release bond posted by a surety must satisfy**
- 19 **all of the following:**
- 20 (1) Be for a term of one (1) year, with annual renewal
- 21 permitted.
- 22 (2) Be in favor of, and payable to, the county.
- 23 (3) Be conditioned upon the surety doing the following:
- 24 (A) Having available facilities necessary for satisfying
- 25 the conditions of:
- 26 (i) drug and alcohol testing under section 13(c)(1) of
- 27 this chapter; and
- 28 (ii) personal reporting requirements under section
- 29 13(b)(2) of this chapter.
- 30 (B) Reporting a breach to the releasing authority not
- 31 later than twenty-four (24) hours after the surety has
- 32 actual knowledge of the breach.
- 33 **Sec. 16. (a) Upon breach of a condition of release by a**
- 34 **participant, the surety shall pay to the county treasurer for deposit**
- 35 **in the county general fund a breach penalty in the amount of fifty**
- 36 **percent (50%) of the annual charge collected by the surety for the**
- 37 **bond.**
- 38 (b) Upon a surety's failure to meet the requirements of section
- 39 15(3) this chapter, the surety shall pay to the county treasurer for
- 40 deposit in the county general fund a major penalty.
- 41 (c) Not more than one (1) penalty may be imposed per bond.
- 42 **Sec. 17. Upon receipt of a notice of breach from a surety, the**

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1 releasing authority shall request the court that originally sentenced  
2 the participant to:  
3 (1) revoke the bond;  
4 (2) issue a warrant for the arrest of the participant; and  
5 (3) order the participant to be confined in the county jail  
6 where the participant was confined at the time of early  
7 release under this chapter.

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