

January 30, 1998

SENATE BILL No. 264

DIGEST OF SB 264 (Updated January 28, 1998 1:02 pm - DI 51)

Citations Affected: IC 35-33.

Synopsis: Bail and personal recognizance. Allows a court to: (1) increase the amount of any required bail; (2) deny a request to reduce bail; or (3) revoke bail or an order for release on personal recognizance on the basis that a defendant poses a risk to the physical safety of another person or the community or that a defendant has threatened or intimidated an alleged victim.

Effective: Upon passage.

Zakas, Alexa

January 8, 1998, read first time and referred to Committee on Judiciary.
January 29, 1998, amended, reported favorably — Do Pass.

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January 30, 1998

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.

SENATE BILL No. 264

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 35-33-8-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Upon a
3 showing of good cause, the state or the defendant may be granted an
4 alteration or revocation of bail by application to the court before which
5 the proceeding is pending. In reviewing a motion for alteration or
6 revocation of bail, credible hearsay evidence is admissible to establish
7 good cause.
8 (b) When the state presents additional:
9 (1) evidence relevant to a high risk of nonappearance, based on
10 the factors set forth in section 4(b) of this chapter; **or**
11 (2) **clear and convincing evidence:**
12 (A) **of the factors described in IC 33-14-10-6(1)(A) and**
13 **IC 33-14-10-6(1)(B); or**
14 (B) **that the defendant otherwise poses a risk to the**
15 **physical safety of another person or the community;**
16 the court may increase bail.
17 (c) When the defendant presents additional evidence of substantial

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1 mitigating factors, based on the factors set forth in section 4(b) of this
 2 chapter, which reasonably suggests that the defendant recognizes the
 3 court's authority to bring him to trial, the court may reduce bail.
 4 **However, the court may not reduce bail if the court finds by clear**
 5 **and convincing evidence that the factors described in**
 6 **IC 33-14-10-6(1)(A) and IC 33-14-10-6(1)(B) exist or that the**
 7 **defendant otherwise poses a risk to the physical safety of another**
 8 **person or the community.**

9 (d) The court may revoke bail or an order for release on personal
 10 recognizance upon clear and convincing proof by the state that:

- 11 (1) while admitted to bail the defendant:
- 12 (1) (A) or his agent threatened or intimidated a victim,
 - 13 prospective witnesses, or jurors concerning the pending
 - 14 criminal proceeding or any other matter;
 - 15 (2) (B) or his agent attempted to conceal or destroy evidence
 - 16 relating to the pending criminal proceeding;
 - 17 (3) (C) violated any condition of his current release order;
 - 18 (4) (D) failed to appear before the court as ordered at any
 - 19 critical stage of the proceedings; or
 - 20 (5) (E) committed a felony or a Class A misdemeanor that
 - 21 demonstrates instability and a disdain for the court's authority
 - 22 to bring him to trial;
 - 23 (2) the factors described in IC 33-14-10-6(1)(A) and
 - 24 IC 33-14-10-6(1)(B) exist or that the defendant otherwise
 - 25 poses a risk to the physical safety of another person or the
 - 26 community; or
 - 27 (3) a combination of the factors described in subdivisions (1)
 - 28 and (2) exists.

29 SECTION 2. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senator Alexa be added as second author
of Senate Bill 264.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill 264, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 29 through 34.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 264 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 1.

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