

SENATE BILL No. 302

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-33-8.

Synopsis: Preventive detention. Prohibits a person charged with committing certain violent crimes, battery of a spouse or former spouse, or stalking from being admitted to bail while the law enforcement agency charging the person with the offense undertakes an investigation to determine whether there are conditions under which the person may be released on bail or recognizance to assure: (1) the person's appearance at any stage of the legal proceedings; or (2) the person will not pose a risk of physical danger to another person or the community. Directs the law enforcement agency conducting the investigation to file a report upon completion of the investigation with the judicial officer who will make the bail determination. Provides that
(Continued next page)

Effective: July 1, 1999.

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January 7, 1999, read first time and referred to Committee on Judiciary.

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Digest Continued

the report must be filed not more than 48 hours after the person's arrest. Provides that if the report alleges that no condition will reasonably assure: (1) the person's appearance at any stage of the legal proceedings; (2) another person's safety; or (3) the safety of the community, the judicial officer shall hold a hearing to consider the report and to make a final determination as to whether the person charged with the offense may be delayed from admittance to bail or recognizance for not more than 48 hours.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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SENATE BILL No. 302



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 35-33-8-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Murder is not
 3 bailable when the proof is evident or the presumption strong. In all
 4 other cases, offenses are bailable. **However, if a person is charged**
 5 **with:**
 6 (1) a violent crime (as defined in IC 5-2-6.1-8(1));
 7 (2) battery (IC 35-42-2-1) and the victim of the battery is the
 8 spouse or former spouse of the person who allegedly
 9 committed the battery; or
 10 (3) stalking (IC 35-45-10) as a felony or a Class A
 11 misdemeanor;
 12 and the law enforcement agency charging the person requests a
 13 hearing as provided in section 2.5 of this chapter, the person
 14 charged with the offense may not be released on bail or
 15 recognizance until a judicial officer holds a hearing under section



1 **2.5 of this chapter.**

2 (b) A person charged with murder has the burden of proof that ~~he~~
3 **the person** should be admitted to bail.

4 SECTION 2. IC 35-33-8-2.5 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 1999]: **Sec. 2.5. (a) If a person is charged with a violent crime (as
7 defined in IC 5-2-6.1-8(1)), battery (IC 35-42-2-1) and the victim of
8 the battery is the spouse or former spouse of the person who
9 allegedly committed the battery, or stalking (IC 35-45-10) as a
10 felony or a Class A misdemeanor, the law enforcement agency
11 responsible for charging the person with the offense may conduct
12 an investigation to determine if any facts support a finding that
13 there is no condition or combination of conditions listed under
14 section 3.2 of this chapter that will reasonably assure:**

15 (1) the appearance of the person at any stage of the legal
16 proceedings; or

17 (2) that the defendant will not pose a risk of physical danger
18 to another person or the community.

19 (b) **If the law enforcement agency conducts an investigation
20 under subsection (a), the agency shall:**

21 (1) prepare a report on the investigation;

22 (2) file the report with the judicial officer who is to make the
23 bail determination not more than forty-eight (48) hours after
24 the person is charged with the offense; and

25 (3) request a hearing on the matter.

26 (c) **After receiving the report and a request for a hearing under
27 subsection (b), the judicial officer shall promptly hold a hearing to:**

28 (1) consider the report; and

29 (2) determine whether to delay the admittance of the person
30 charged with the offense to bail or recognizance for not more
31 than forty-eight (48) hours.

32 **The person charged with the offense may not be released on bail or
33 recognizance until the judicial officer enters a written order
34 containing the judicial officer's findings on the report filed by the
35 law enforcement agency.**

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