

# HOUSE BILL No. 1159

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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 specified nonviolent misdemeanor if the person posts a surety bond payable to the county and revocable upon any violation of the conditions placed upon release from imprisonment.

**Effective:** July 1, 1999.

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**Smith M**

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January 6, 1999, read first time and referred to Committee on Courts and Criminal Code.

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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.

## HOUSE BILL No. 1159



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, 1999]:

4 **Chapter 3.5. Conditional Early Release**

5 **Sec. 1.** As used in this chapter, "bond" means the written  
6 undertaking delivered by a surety to a releasing authority and  
7 describing the terms and conditions of the surety's duties.

8 **Sec. 2.** As used in this chapter, "breach" means violation by a  
9 participant of a condition of release.

10 **Sec. 3.** As used in this chapter, "breach penalty" means the  
11 amount of money to be paid to the county by the surety upon  
12 revocation of a bond. The breach penalty is one-half (1/2) of the  
13 annual charge collected by the surety for the bond.

14 **Sec. 4.** As used in this chapter, "charge" means the amount of  
15 money the surety charges to write the bond.

16 **Sec. 5.** As used in this chapter, "condition" refers to a condition



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1 that the releasing authority may impose on a participant as a  
2 requirement for early release from confinement.

3 **Sec. 6.** As used in this chapter, "major penalty" means a penalty  
4 of fifteen thousand dollars (\$15,000).

5 **Sec. 7.** As used in this chapter, "mandatory conditions" refers  
6 to conditions a releasing authority places upon a participant as a  
7 requirement for early release from confinement.

8 **Sec. 8.** As used in this chapter, "participant" means a person  
9 released from confinement under this chapter who has been  
10 convicted of a misdemeanor that did not involve bodily injury.

11 **Sec. 9.** As used in this chapter, "releasing authority" means a  
12 local governmental unit having legal authority to release a confined  
13 person to probation. The term includes a county sheriff.

14 **Sec. 10.** As used in this chapter, "revocation of bond" means the  
15 use and effectiveness of the bond has expired, and the bond has  
16 been revoked under section 16 of this chapter.

17 **Sec. 11.** As used in this chapter, "surety" means a person  
18 licensed under IC 27-10 to execute bonds filed in criminal cases.

19 **Sec. 12. (a)** A releasing authority may release a person from  
20 confinement before the end of the person's fixed term of  
21 imprisonment if the person:

22 (1) was convicted of a misdemeanor that did not involve  
23 bodily injury; and

24 (2) is confined in a county jail.

25 (b) Upon the decision of a releasing authority to return a  
26 participant to society under subsection (a), the releasing authority  
27 may release the participant by requiring the posting of an early  
28 release bond by a surety.

29 (c) The releasing authority shall establish the conditions of a  
30 participant's release. The conditions imposed on the participant  
31 must include the following:

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

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

38 (d) In addition to the mandatory conditions of release described  
39 in subsection (c), the releasing authority may impose any of the  
40 following conditions:

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

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- 1 (2) Participation in specified recovery programs.
- 2 (3) No contact or direct communication with a witness
- 3 involved in the participant's conviction.
- 4 (4) No contact or direct or indirect communication with a
- 5 victim involved in the participant's conviction.
- 6 (5) Obtaining and maintaining employment.
- 7 (6) Home detention using electronic monitoring devices under
- 8 IC 35-38-2.5.
- 9 (7) Travel restrictions.
- 10 (8) Periodic restitution payments.
- 11 (9) Community service.
- 12 (10) Participation in and completion of education courses.

13 (e) Conditions of release imposed on a participant under this  
 14 section must be appended to and made a part of the bond.

15 **Sec. 13. The releasing authority may:**

- 16 (1) revoke a bond upon a breach; or
- 17 (2) revoke a bond at any time upon a determination by the
- 18 releasing authority that the participant is not abiding by the
- 19 conditions of the bond.

20 **Sec. 14. An early release bond posted by the surety must satisfy**  
 21 **all of the following:**

- 22 (1) Be for a term of one (1) year, with annual renewal allowed.
- 23 (2) Be in favor of and payable to the county.
- 24 (3) Be conditioned upon the surety doing the following:
- 25 (A) Having available facilities necessary for satisfying the
- 26 conditions of:
- 27 (i) drug and alcohol testing under section 12(d)(1) of this
- 28 chapter; and
- 29 (ii) personal reporting requirements under section
- 30 12(c)(2) of this chapter.
- 31 (B) Reporting a breach to the releasing authority not later
- 32 than twenty-four (24) hours after the surety has actual
- 33 knowledge of the breach.

34 **Sec. 15. (a) Upon breach of a condition of release by a**  
 35 **participant, the surety shall pay to the county treasurer for deposit**  
 36 **in the county general fund a breach penalty in the amount of**  
 37 **one-half (1/2) of the annual charge collected by the surety for the**  
 38 **bond.**

39 (b) Upon a surety's failure to meet the requirements of section  
 40 14(3) of this chapter, the surety shall pay a major penalty to the  
 41 county treasurer for deposit in the county general fund.

42 (c) Not more than one (1) penalty may be imposed per bond.

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1           **Sec. 16. Upon receipt of a notice of breach from a surety, the**  
2 **releasing authority shall request the court that originally sentenced**  
3 **the participant to:**  
4           **(1) revoke the bond;**  
5           **(2) issue a warrant for the arrest of the participant; and**  
6           **(3) order the participant to be confined in the correctional**  
7 **facility where the participant was confined at the time of early**  
8 **release under this chapter.**

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