
HOUSE BILL No. 1437

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-8-1-8.7; IC 11-12; IC 12-23; IC 12-24-12-10; IC 35-38-2-2.3; IC 35-50.

Synopsis: Treatment of nonviolent drug offenders. Requires creation of a controlled substance rehabilitation program, which requires an individual who pleads guilty to or is convicted of a nonviolent crime that involves controlled substances to complete a controlled substance rehabilitative program instead of incarceration. Repeals provisions concerning treatment, continuance of prosecution, and probation after felony charges and convictions of certain offenders.

Effective: July 1, 2004.

Crawford

January 20, 2004, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1437



A BILL FOR AN ACT to amend the Indiana Code concerning corrections and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-8-1-8.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 8.7. "Forcible felony", for purposes of IC 11-12, has**
4 **the meaning set forth in IC 35-41-1-11.**

5 SECTION 2. IC 11-12-1-2 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2. (a)** Notwithstanding
7 any other law, a county or any combination of counties may establish
8 and operate a community corrections advisory board for the purpose of
9 coordinating or operating community corrections programs. The
10 county, in consultation with the advisory board, shall coordinate or
11 operate community corrections programs for any of the following:

- 12 (1) The prevention of crime or delinquency.
- 13 (2) Persons sentenced to imprisonment in a county or local penal
14 facility other than a state owned or operated facility.
- 15 (3) Committed offenders.
- 16 (4) Persons ordered to participate in community corrections
17 programs as a condition of probation.



1 (b) Each county, by itself or in any combination of counties,
2 shall establish and operate a community corrections advisory
3 board to coordinate or operate community corrections programs
4 for persons required to participate in a controlled substance
5 rehabilitation program under IC 11-12-3.7.

6 SECTION 3. IC 11-12-3.5-1, AS ADDED BY P.L.224-2003,
7 SECTION 124, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this chapter, "forensic
9 diversion program" means a program developed to ensure that an adult
10 with a mental illness ~~or an addictive disorder~~ who has been convicted
11 of a crime receives adequate community based treatment or other
12 services instead of incarceration. An adult with a mental illness ~~or an~~
13 ~~addictive disorder~~ who has been convicted of a crime may participate
14 in a forensic diversion program following the sentencing hearing, if the
15 adult is:

- 16 (1) participating in a community corrections program;
- 17 (2) participating in a community transition program; or
- 18 (3) on probation.

19 SECTION 4. IC 11-12-3.5-2, AS ADDED BY P.L.224-2003,
20 SECTION 124, IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2004]: Sec. 2. The community corrections
22 advisory board shall develop a forensic diversion program plan to do
23 the following:

- 24 (1) Establish and provide procedures for the early identification
25 of serious mental ~~or addictive~~ disorders among detainees,
26 including initial intake and assessment programs for individuals
27 who are arrested.
- 28 (2) Permit an individual who is not charged with a crime
29 involving serious bodily injury to participate in an arraignment or
30 postarraignment diversion program.
- 31 (3) Provide a program of community based services for an
32 individual eligible for deferred prosecution under IC 33-14-1-7 or
33 IC 12-23-5-7.
- 34 (4) Permit an individual participating in a forensic diversion
35 program to discontinue participation sixty (60) days after the
36 individual's primary caregiver, physician, or counselor has
37 released the individual from all care except for basic monitoring.

38 SECTION 5. IC 11-12-3.7 IS ADDED TO THE INDIANA CODE
39 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2004]:

41 **Chapter 3.7. Controlled Substance Rehabilitation Program**
42 **Sec. 1. As used in this chapter, "controlled substance**

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1 rehabilitation program" means a program developed to ensure
 2 that an individual with a substance abuse addiction who:
 3 (1) pleads guilty to a charge; or
 4 (2) is convicted of a crime;
 5 that involves controlled substances (as defined in IC 35-48-1-9)
 6 receives treatment for the addiction instead of incarceration.
 7 Sec. 2. (a) Except as provided in subsection (b), an individual
 8 with a substance abuse addiction who pleads guilty to a charge or
 9 is convicted of a crime that involves controlled substances shall
 10 participate in a controlled substance rehabilitation program
 11 following the sentencing hearing as a condition of probation.
 12 (b) An individual with a substance abuse addiction is not eligible
 13 for a controlled substance rehabilitation program if:
 14 (1) the individual is charged with or convicted of:
 15 (A) a forcible felony; or
 16 (B) a burglary classified as a Class A or Class B felony;
 17 (2) the individual has a record that includes at least two (2)
 18 prior convictions for:
 19 (A) forcible felonies; or
 20 (B) a burglary classified as a Class A or Class B felony;
 21 (3) other criminal proceedings not arising out of the same
 22 incident and alleging commission of a felony are pending
 23 against the individual;
 24 (4) the individual is on probation or parole and the
 25 appropriate parole or probation authority does not consent to
 26 the individual's participation in a controlled substance
 27 rehabilitation program; or
 28 (5) the individual was admitted to a treatment program under
 29 this chapter, IC 12-23-7 (before its repeal), or IC 12-23-8
 30 (before its repeal) on two (2) occasions during the preceding
 31 two (2) years.
 32 (c) If an individual described in subsection (a) does not complete
 33 a controlled substance rehabilitation program or is convicted of
 34 another crime while undergoing treatment in a controlled
 35 substance rehabilitation program, a court shall:
 36 (1) sentence the individual, if the individual pleaded guilty to
 37 the crime; or
 38 (2) revoke or modify the individual's probation, if the
 39 completion of a controlled substance rehabilitation program
 40 was a condition of the individual's probation.
 41 (d) A court shall advise an individual who is ordered into a
 42 controlled substance rehabilitation program that:

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- 1 (1) the individual may be placed under the supervision of a
- 2 controlled substance rehabilitation program for a period not
- 3 to exceed two (2) years; or
- 4 (2) during treatment, the individual may be confined in a
- 5 institution or, at the discretion of the controlled substance
- 6 rehabilitation program, the individual may be released for
- 7 treatment or supervised in the community.

8 (e) The court may request a controlled substance rehabilitation
 9 program to examine and evaluate an individual to determine
 10 whether the individual is a drug abuser or an alcoholic and is likely
 11 to be rehabilitated through treatment. If the controlled substance
 12 rehabilitation program determines that an individual will not likely
 13 be rehabilitated through treatment, the individual is not eligible to
 14 participate in the controlled substance rehabilitation program.

15 (f) A court may require progress reports on an individual who
 16 is ordered by the court to undergo treatment in a controlled
 17 substance rehabilitation program.

18 **Sec. 3. Each community corrections advisory board established for**
 19 **one (1) or more counties under IC 11-12-1-2 shall develop a**
 20 **controlled substance rehabilitation program to do the following:**

- 21 (1) Establish and provide procedures for the early
- 22 identification of substance abuse addictions among detainees,
- 23 including initial intake and assessment programs for
- 24 individuals who are arrested.
- 25 (2) Permit an individual who is not charged with a crime
- 26 involving serious bodily injury to participate in a controlled
- 27 substance rehabilitation program.
- 28 (3) Establish a comprehensive program to treat substance
- 29 abuse addictions.
- 30 (4) Encourage addiction treatment services based on best
- 31 practices and current research.
- 32 (5) Establish processes that provide for flexible,
- 33 individualized, and coordinated service planning for program
- 34 participants.

35 **Sec. 4. A controlled substance rehabilitation program:**

- 36 (1) must be certified by the division of mental health and
- 37 addiction; and
- 38 (2) may be operated by the community correction advisory
- 39 board or a private contractor.

40 **Sec. 5. A controlled substance rehabilitation program must**
 41 **provide the following services:**

- 42 (1) Screening for eligibility and other appropriate services.

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- 1 **(2) Clinical assessment.**
- 2 **(3) Education.**
- 3 **(4) Referral.**
- 4 **(5) Service coordination and case management.**
- 5 **(6) Emergency.**
- 6 **(7) Detoxification.**
- 7 **(8) Counseling.**
- 8 **(9) Rehabilitative care.**
- 9 **Sec. 6. (a) As used in this section, "fund" means the controlled**
- 10 **substance rehabilitation program fund established by subsection**
- 11 **(b).**
- 12 **(b) The controlled substance rehabilitation program fund is**
- 13 **established to administer and carry out the purposes of this**
- 14 **chapter. The department shall administer the fund.**
- 15 **(c) The expenses of administering the fund shall be paid from**
- 16 **money in the fund.**
- 17 **(d) The treasurer of state shall invest money in the fund in the**
- 18 **same manner as other public money may be invested.**
- 19 **(e) Money in the fund at the end of the state fiscal year does not**
- 20 **revert to the state general fund.**
- 21 **(f) The fund consists of:**
- 22 **(1) amounts appropriated by the general assembly; and**
- 23 **(2) donations, grants, and money received from any other**
- 24 **source.**
- 25 **(g) The department shall adopt rules governing the**
- 26 **disbursement of funds to a county that complies with the provisions**
- 27 **of this chapter.**
- 28 **(h) There is annually appropriated to the department from the**
- 29 **fund an amount sufficient to carry out the purposes of this chapter.**
- 30 **SECTION 6. IC 12-23-1-11 IS AMENDED TO READ AS**
- 31 **FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) This article does**
- 32 **not repeal or modify Indiana law relating to the operation of a vehicle**
- 33 **under the influence of liquor or drugs.**
- 34 **(b) IC 12-23-5 ~~IC 12-23-6, IC 12-23-7, IC 12-23-8~~, and any other**
- 35 **related provisions of this article shall be considered to be alternative**
- 36 **methods or procedures for the prosecution of alcoholics or drug abusers**
- 37 **as criminals**
- 38 **SECTION 7. IC 12-23-5-1, AS AMENDED BY P.L.224-2003,**
- 39 **SECTION 125, IS AMENDED TO READ AS FOLLOWS**
- 40 **[EFFECTIVE JULY 1, 2004]: Sec. 1. (a) In a criminal proceeding for**
- 41 **a misdemeanor or infraction in which:**
- 42 **(1) the use or abuse of alcohol, drugs, or harmful substances is a**

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1 contributing factor or a material element of the offense; or
 2 (2) the defendant's mental illness other than substance abuse, is
 3 a contributing factor;
 4 the court may take judicial notice of the fact that proper early
 5 intervention, medical, advisory, or rehabilitative treatment of the
 6 defendant is likely to decrease the defendant's tendency to engage in
 7 antisocial behavior.

8 (b) For purposes of IC 11-12-3.5, in a criminal proceeding in which:
 9 (1) the use or abuse of alcohol ~~drugs~~, or harmful substances is a
 10 contributing factor or a material element of the offense; or
 11 (2) the defendant's mental illness other than substance abuse, is
 12 a contributing factor;

13 the court shall take judicial notice of the fact that proper early
 14 intervention, medical, advisory, or rehabilitative treatment of the
 15 defendant is likely to decrease the defendant's tendency to engage in
 16 antisocial behavior.

17 SECTION 8. IC 12-23-5-6 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. If a defendant is
 19 convicted in a proceeding described in section 1 of this chapter and the
 20 court places the defendant on probation, the court may do the
 21 following:

- 22 (1) Refer the defendant to an alcohol ~~and drug services~~ treatment
 23 program if the court makes a determination under section ~~†(†)~~
 24 **1(a)(1)** of this chapter.
- 25 (2) Refer the defendant to an appropriate therapy program if the
 26 court makes a determination under section ~~†(2)~~ **1(a)(2)** of this
 27 chapter.
- 28 (3) Require the defendant to undergo treatment as a condition of
 29 probation.

30 SECTION 9. IC 12-23-9-4 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) An individual
 32 who by medical examination is found to be incapacitated by alcohol at
 33 the time of admission or to have become incapacitated by alcohol at
 34 any time after admission may not be detained at a facility:

- 35 (1) after the individual is no longer incapacitated by alcohol; or
- 36 (2) if the individual remains incapacitated by alcohol for more
 37 than forty-eight (48) hours after admission as a patient. ~~unless the~~
 38 ~~individual is committed under IC 12-23-7 through IC 12-23-8.~~

39 (b) An individual may consent to remain in a facility as long as the
 40 physician in charge believes it is appropriate.

41 SECTION 10. IC 12-24-12-10, AS AMENDED BY P.L.215-2001,
 42 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2004]: Sec. 10. (a) Upon admission to a state institution
 2 administered by the division of mental health and addiction, the
 3 gatekeeper is one (1) of the following:

4 (1) For an individual with a psychiatric disorder, the community
 5 mental health center that submitted the report to the committing
 6 court under IC 12-26.

7 (2) For an individual with a developmental disability, a division
 8 of disability, aging, and rehabilitative services service coordinator
 9 under IC 12-11-2.1.

10 (3) For an individual entering an addictions program, an
 11 addictions treatment provider that is certified by the division of
 12 mental health and addiction.

13 (b) The division is the gatekeeper for the following:

14 (1) An individual who is found to have insufficient
 15 comprehension to stand trial under IC 35-36-3.

16 (2) An individual who is found to be not guilty by reason of
 17 insanity under IC 35-36-2-4 and is subject to a civil commitment
 18 under IC 12-26.

19 (3) An individual who is immediately subject to a civil
 20 commitment upon the individual's release from incarceration in
 21 a facility administered by the department of correction or the
 22 Federal Bureau of Prisons, or upon being charged with or
 23 convicted of a forcible felony under IC 35-41-1.

24 ~~(4) An individual placed under the supervision of the division for~~
 25 ~~addictions treatment under IC 12-23-7 and IC 12-23-8.~~

26 ~~(5)~~ (4) An individual transferred from the department of
 27 correction under IC 11-10-4.

28 SECTION 11. IC 35-38-2-2.3, AS AMENDED BY P.L.2-2003,
 29 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2004]: Sec. 2.3. (a) As a condition of probation, the court may
 31 require a person to do a combination of the following:

32 (1) Work faithfully at suitable employment or faithfully pursue a
 33 course of study or vocational training that will equip the person
 34 for suitable employment.

35 (2) Undergo available medical or psychiatric treatment and
 36 remain in a specified institution if required for that purpose.

37 (3) Attend or reside in a facility established for the instruction,
 38 recreation, or residence of persons on probation.

39 (4) Support the person's dependents and meet other family
 40 responsibilities.

41 (5) Make restitution or reparation to the victim of the crime for
 42 damage or injury that was sustained by the victim. When

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- 1 restitution or reparation is a condition of probation, the court shall
- 2 fix the amount, which may not exceed an amount the person can
- 3 or will be able to pay, and shall fix the manner of performance.
- 4 (6) Execute a repayment agreement with the appropriate
- 5 governmental entity to repay the full amount of public relief or
- 6 assistance wrongfully received, and make repayments according
- 7 to a repayment schedule set out in the agreement.
- 8 (7) Pay a fine authorized by IC 35-50.
- 9 (8) Refrain from possessing a firearm or other deadly weapon
- 10 unless granted written permission by the court or the person's
- 11 probation officer.
- 12 (9) Report to a probation officer at reasonable times as directed
- 13 by the court or the probation officer.
- 14 (10) Permit the person's probation officer to visit the person at
- 15 reasonable times at the person's home or elsewhere.
- 16 (11) Remain within the jurisdiction of the court, unless granted
- 17 permission to leave by the court or by the person's probation
- 18 officer.
- 19 (12) Answer all reasonable inquiries by the court or the person's
- 20 probation officer and promptly notify the court or probation
- 21 officer of any change in address or employment.
- 22 (13) Perform uncompensated work that benefits the community.
- 23 (14) Satisfy other conditions reasonably related to the person's
- 24 rehabilitation.
- 25 (15) Undergo home detention under IC 35-38-2.5.
- 26 (16) Undergo a laboratory test or series of tests approved by the
- 27 state department of health to detect and confirm the presence of
- 28 the human immunodeficiency virus (HIV) antigen or antibodies
- 29 to the human immunodeficiency virus (HIV), if:
- 30 (A) the person had been convicted of a sex crime listed in
- 31 IC 35-38-1-7.1(e) and the crime created an epidemiologically
- 32 demonstrated risk of transmission of the human
- 33 immunodeficiency virus (HIV) as described in
- 34 IC 35-38-1-7.1(b)(8); or
- 35 (B) the person had been convicted of an offense related to a
- 36 controlled substance listed in IC 35-38-1-7.1(f) and the offense
- 37 involved the conditions described in IC 35-38-1-7.1(b)(9)(A).
- 38 (17) Refrain from any direct or indirect contact with an
- 39 individual.
- 40 (18) Execute a repayment agreement with the appropriate
- 41 governmental entity or with a person for reasonable costs incurred
- 42 because of the taking, detention, or return of a missing child (as

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1 defined in IC 10-13-5-4).

2 (19) Periodically undergo a laboratory chemical test (as defined
3 in IC 14-15-8-1) or series of chemical tests as specified by the
4 court to detect and confirm the presence of a controlled substance
5 (as defined in IC 35-48-1-9). The person on probation is
6 responsible for any charges resulting from a test and shall have
7 the results of any test under this subdivision reported to the
8 person's probation officer by the laboratory.

9 (20) If the person was confined in a penal facility, execute a
10 reimbursement plan as directed by the court and make repayments
11 under the plan to the authority that operates the penal facility for
12 all or part of the costs of the person's confinement in the penal
13 facility. The court shall fix an amount that:

14 (A) may not exceed an amount the person can or will be able
15 to pay;

16 (B) does not harm the person's ability to reasonably be self
17 supporting or to reasonably support any dependent of the
18 person; and

19 (C) takes into consideration and gives priority to any other
20 restitution, reparation, repayment, or fine the person is
21 required to pay under this section.

22 (21) Refrain from owning, harboring, or training an animal.

23 **(22) Successfully complete a controlled substance**
24 **rehabilitation program under IC 11-12-3.7.**

25 (b) When a person is placed on probation, the person shall be given
26 a written statement specifying:

27 (1) the conditions of probation; and

28 (2) that if the person violates a condition of probation during the
29 probationary period, a petition to revoke probation may be filed
30 before the earlier of the following:

31 (A) One (1) year after the termination of probation.

32 (B) Forty-five (45) days after the state receives notice of the
33 violation.

34 (c) As a condition of probation, the court may require that the
35 person serve a term of imprisonment in an appropriate facility at the
36 time or intervals (consecutive or intermittent) within the period of
37 probation the court determines.

38 (d) Intermittent service may be required only for a term of not more
39 than sixty (60) days and must be served in the county or local penal
40 facility. The intermittent term is computed on the basis of the actual
41 days spent in confinement and shall be completed within one (1) year.
42 A person does not earn credit time while serving an intermittent term

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1 of imprisonment under this subsection. When the court orders
2 intermittent service, the court shall state:

- 3 (1) the term of imprisonment;
4 (2) the days or parts of days during which a person is to be
5 confined; and
6 (3) the conditions.

7 (e) Supervision of a person may be transferred from the court that
8 placed the person on probation to a court of another jurisdiction, with
9 the concurrence of both courts. Retransfers of supervision may occur
10 in the same manner. This subsection does not apply to transfers made
11 under IC 11-13-4 or IC 11-13-5.

12 (f) When a court imposes a condition of probation described in
13 subsection (a)(17):

- 14 (1) the clerk of the court shall comply with IC 5-2-9; and
15 (2) the prosecuting attorney shall file a confidential form
16 prescribed or approved by the division of state court
17 administration with the clerk.

18 SECTION 12. IC 35-50-3-1, AS AMENDED BY P.L.1-2002,
19 SECTION 152, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The court may suspend any
21 part of a sentence for a misdemeanor.

22 (b) Except as provided in subsection (c), whenever the court
23 suspends in whole or in part a sentence for a Class A, Class B, or Class
24 C misdemeanor, it may place the person on probation under IC 35-38-2
25 for a fixed period of not more than one (1) year, notwithstanding the
26 maximum term of imprisonment for the misdemeanor set forth in
27 sections 2 through 4 of this chapter. However, the combined term of
28 imprisonment and probation for a misdemeanor may not exceed one (1)
29 year.

30 (c) Whenever the court suspends a sentence for a misdemeanor, if
31 the court finds that the use or abuse of alcohol, drugs, or harmful
32 substances is a contributing factor or a material element of the offense,
33 the court ~~may~~ **shall** place the person on probation under IC 35-38-2
34 **and in a controlled substance rehabilitation program under**
35 **IC 11-12-3.7** for a fixed period of not more than two (2) years.
36 However, a court may not place a person on probation for a period of
37 more than twelve (12) months in the absence of a report that
38 substantiates the need for a period of probation that is longer than
39 twelve (12) months for the purpose of completing a course of substance
40 abuse treatment. A probation user's fee that exceeds fifty percent (50%)
41 of the maximum probation user's fee allowed under IC 35-38-2-1 may
42 not be required beyond the first twelve (12) months of probation.

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1 SECTION 13. IC 35-50-2-2, AS AMENDED BY P.L.224-2003,
2 SECTION 126, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The court may suspend any
4 part of a sentence for a felony, except as provided in this section or in
5 section 2.1 of this chapter.

6 (b) With respect to the following crimes listed in this subsection, the
7 court may suspend only that part of the sentence that is in excess of the
8 minimum sentence, unless the court has approved placement of the
9 offender in a forensic diversion program under IC 11-12-3.5 **or in a**
10 **controlled substance rehabilitation program under IC 11-12-3.7:**

11 (1) The crime committed was a Class A or Class B felony and the
12 person has a prior unrelated felony conviction.

13 (2) The crime committed was a Class C felony and less than seven
14 (7) years have elapsed between the date the person was
15 discharged from probation, imprisonment, or parole, whichever
16 is later, for a prior unrelated felony conviction and the date the
17 person committed the Class C felony for which the person is
18 being sentenced.

19 (3) The crime committed was a Class D felony and less than three
20 (3) years have elapsed between the date the person was
21 discharged from probation, imprisonment, or parole, whichever
22 is later, for a prior unrelated felony conviction and the date the
23 person committed the Class D felony for which the person is
24 being sentenced. However, the court may suspend the minimum
25 sentence for the crime only if the court orders home detention
26 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
27 sentence specified for the crime under this chapter.

- 28 (4) The felony committed was:
29 (A) murder (IC 35-42-1-1);
30 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
31 causing death;
32 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
33 (D) kidnapping (IC 35-42-3-2);
34 (E) confinement (IC 35-42-3-3) with a deadly weapon;
35 (F) rape (IC 35-42-4-1) as a Class A felony;
36 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
37 felony;
38 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
39 felony;
40 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
41 with a deadly weapon;
42 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily

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- 1 injury;
 2 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
 3 or with a deadly weapon;
 4 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
 5 weapon;
 6 (M) escape (IC 35-44-3-5) with a deadly weapon;
 7 (N) rioting (IC 35-45-1-2) with a deadly weapon;
 8 (O) dealing in cocaine, a narcotic drug, or methamphetamine
 9 (IC 35-48-4-1) if the court finds the person possessed a firearm
 10 (as defined in IC 35-47-1-5) at the time of the offense, or the
 11 person delivered or intended to deliver to a person under
 12 eighteen (18) years of age at least three (3) years junior to the
 13 person and was on a school bus or within one thousand (1,000)
 14 feet of:
 15 (i) school property;
 16 (ii) a public park;
 17 (iii) a family housing complex; or
 18 (iv) a youth program center;
 19 (P) dealing in a schedule I, II, or III controlled substance
 20 (IC 35-48-4-2) if the court finds the person possessed a firearm
 21 (as defined in IC 35-47-1-5) at the time of the offense, or the
 22 person delivered or intended to deliver to a person under
 23 eighteen (18) years of age at least three (3) years junior to the
 24 person and was on a school bus or within one thousand (1,000)
 25 feet of:
 26 (i) school property;
 27 (ii) a public park;
 28 (iii) a family housing complex; or
 29 (iv) a youth program center;
 30 (Q) an offense under IC 9-30-5 (operating a vehicle while
 31 intoxicated) and the person who committed the offense has
 32 accumulated at least two (2) prior unrelated convictions under
 33 IC 9-30-5; or
 34 (R) aggravated battery (IC 35-42-2-1.5).
 35 (c) Except as provided in subsection (e), whenever the court
 36 suspends a sentence for a felony, it shall place the person on probation
 37 under IC 35-38-2 for a fixed period to end not later than the date that
 38 the maximum sentence that may be imposed for the felony will expire.
 39 (d) The minimum sentence for a person convicted of voluntary
 40 manslaughter may not be suspended unless the court finds at the
 41 sentencing hearing that the crime was not committed by means of a
 42 deadly weapon.

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1 (e) Whenever the court suspends that part of an offender's (as
2 defined in IC 5-2-12-4) sentence that is suspendible under subsection
3 (b), the court shall place the offender on probation under IC 35-38-2 for
4 not more than ten (10) years.
5 (f) An additional term of imprisonment imposed under
6 IC 35-50-2-11 may not be suspended.
7 (g) A term of imprisonment imposed under IC 35-47-10-6 or
8 IC 35-47-10-7 may not be suspended if the commission of the offense
9 was knowing or intentional.
10 (h) A term of imprisonment imposed for an offense under
11 IC 35-48-4-6(b)(1)(B) may not be suspended.
12 SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE
13 JULY 1, 2004]: IC 12-23-6; IC 12-23-7; 12-23-8.

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