

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 139 be amended to read as follows:

- 1 Page 1, line 6, reset in roman "(A)" and double block indent.
2 Page 1, line 8, reset in roman "(B) the forensic diversion" and
3 double block indent.
4 Page 1, line 8, after "diversion" insert **"test program plan under**
5 **IC 11-12-3.7-4, if the county operated a forensic diversion**
6 **program on January 1, 2004."**
7 Page 2, between lines 21 and 22, begin a new paragraph and insert:
8 "SECTION 2. IC 11-12-3.7 IS ADDED TO THE INDIANA CODE
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2004]:
11 **Chapter 3.7. Forensic diversion test program**
12 **Sec. 1. This chapter only applies to a county that operated a**
13 **forensic diversion program under IC 11-12-3.5 on January 1, 2004.**
14 **Sec. 2. As used in this chapter, "addictive disorder" means**
15 **a diagnosable chronic substance use disorder of sufficient duration**
16 **to meet diagnostic criteria within the most recent edition of the**
17 **Diagnostic and Statistical Manual of Mental Disorders published**
18 **by the American Psychiatric Association.**
19 **Sec. 3. As used in this chapter, "drug dealing offense" means**
20 **one (1) or more of the following offenses:**
21 **(1) Dealing in cocaine, a narcotic drug, or**
22 **methamphetamine (IC 35-48-4-1), unless:**
23 **(A) the person does not have a prior conviction for**
24 **dealing in a controlled substance under IC 35-48-4; and**
25 **(B) the person received only minimal consideration as**
26 **a result of the drug transaction.**
27 **(2) Dealing in a schedule I, II, III, IV, or V controlled**
28 **substance (IC 35-48-4-2 through IC 25-48-4-4), unless:**
29 **(A) the person does not have a prior conviction for**
30 **dealing in a controlled substance under IC 35-48-4; and**

1 **(B) the person received only minimal consideration as**
2 **a result of the drug transaction.**
3 **(3) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-**
4 **10), unless:**
5 **(A) the person does not have a prior conviction for**
6 **dealing in a controlled substance under IC 35-48-4; and**
7 **(B) the person received only minimal consideration as**
8 **a result of the drug transaction.**
9 **Sec. 4. "Forensic diversion test program" means a test**
10 **program developed to ensure that an adult with a mental illness**
11 **or an addictive disorder who has been convicted of a crime that is**
12 **not a violent offense or a drug dealing offense and who does not**
13 **have a previous conviction for a violent offense or a drug dealing**
14 **offense receives adequate community based treatment or other**
15 **services instead of incarceration.**
16 **Sec. 5. "Mental illness" means a diagnosable case of**
17 **schizophrenia, severe depression, or bipolar disorder that is of**
18 **sufficient duration to meet diagnostic criteria within the most**
19 **recent edition of the Diagnostic and Statistical Manual of Mental**
20 **Disorders published by the American Psychiatric Association.**
21 **Sec. 6. "Violent offense" means one (1) or more of the**
22 **following offenses:**
23 **(1) Murder (IC 35-42-1-1).**
24 **(2) Attempted murder (IC 35-41-5-1).**
25 **(3) Voluntary manslaughter (IC 35-42-1-3).**
26 **(4) Involuntary manslaughter (IC 35-42-1-4).**
27 **(5) Reckless homicide (IC 35-42-1-5).**
28 **(6) Aggravated battery (IC 35-42-2-1.5).**
29 **(7) Battery (IC 35-42-2-1) as a Class A felony, Class B**
30 **felony, or Class C felony.**
31 **(8) Kidnapping (IC 35-42-3-2).**
32 **(9) A sex crime (IC 35-42-4).**
33 **(10) Incest (IC 35-46-1-3).**
34 **(11) Robbery as a Class A felony or a Class B felony (IC**
35 **35-42-5-1).**
36 **(12) Burglary as a Class A felony or a Class B felony (IC**
37 **35-43-2-1).**
38 **(13) Carjacking (IC 35-42-5-2).**
39 **(14) Assisting a criminal as a Class C felony (IC 35-44-3-2).**
40 **(15) Escape (IC 35-44-3-5) as a Class B felony, Class C**
41 **felony, or Class D felony.**
42 **(16) Trafficking with an inmate as a Class C felony (IC 35-**
43 **44-3-9).**
44 **(17) Causing death when operating a motor vehicle (IC**
45 **9-30-5-5).**
46 **(18) Criminal confinement (IC 35-42-3-3).**
47 **(19) An attempt or conspiracy to commit a crime listed in**
48 **this subdivision.**

1 **(20) A crime under the laws of another jurisdiction,**
 2 **including a military court, that is substantially similar to**
 3 **any of the offenses listed in this subdivision.**

4 **Sec. 7. (a) A person who:**

5 **(1) has been diagnosed with:**

6 **(A) a mental illness by physician licensed in Indiana; or**
 7 **(B) an addictive disorder through the use of an**
 8 **assessment method recognized by the department of**
 9 **mental health as a reliable and accepted tool for**
 10 **diagnosing chronic substance use disorders;**

11 **(2) has been convicted of a crime that is not a:**

12 **(A) violent offense; or**

13 **(B) drug dealing offense;**

14 **(3) does not have a previous conviction for a violent offense**
 15 **or a drug dealing offense; and**

16 **(4) is:**

17 **(A) participating in a community corrections program;**

18 **(B) participating in a community transition program; or**

19 **(C) on probation;**

20 **may be permitted to participate in a forensic diversion test**
 21 **program.**

22 **(b) The court shall order an executed sentence for one (1) or**
 23 **more offenses that are nonsuspendible and that are eligible for**
 24 **the forensic diversion test program. The court may stay the**
 25 **execution of all or part of a nonsuspendible sentence during the**
 26 **time period in which the offender satisfactorily participates in the**
 27 **forensic diversion test program.**

28 **(c) If the offender satisfactorily completes the forensic**
 29 **diversion test program, the court may order the executed**
 30 **sentence waived. If the offender does not satisfactorily complete**
 31 **the forensic diversion test program, the court shall lift the stay**
 32 **imposed under this section and order the sentence executed.**

33 **Sec. 8.(a) The judge responsible for administering the forensic**
 34 **diversion test program shall, after consulting with the:**

35 **(1) community corrections advisory board, if there is one in**
 36 **the county;**

37 **(2) head of the county public defender office, if there is one**
 38 **in the county;**

39 **(3) head of the probation department; and**

40 **(4) prosecuting attorney;**

41 **adopt rules governing the operation of the forensic diversion test**
 42 **program.**

43 **(b) The judge responsible for administering the forensic**
 44 **diversion test program may, after consulting with the:**

45 **(1) community corrections advisory board, if there is one in**
 46 **the county;**

- 1 **(2) head of the county public defender office, if there is one**
 2 **in the county;**
 3 **(3) head of the probation department; and**
 4 **(4) prosecuting attorney;**
 5 **alter or amend the rules governing the operation of the forensic**
 6 **diversion test program at any time.**
 7 **(c) The rules adopted under this section must:**
 8 **(1) require that the forensic diversion test program be**
 9 **administered by a judge; and**
 10 **(2) only permit the release of a participant in the forensic**
 11 **diversion test program by a judge.**
 12 **(d) The rules adopted under this section may be more**
 13 **restrictive than the forensic diversion test program requirements**
 14 **set forth in this chapter.**
 15 **Sec. 9. The department may provide funds for forensic**
 16 **diversion test programs for those offenders who were diverted**
 17 **from a mandatory period of incarceration from the department.**
 18 **Sec. 10. This chapter expires June 30, 2010."**
 19 Page 3, line 8, delete ":".
 20 Page 3, line 8, reset in roman "unless the court has approved
 21 placement of the".
 22 Page 3, line 9, reset in roman "offender in a forensic diversion".
 23 Page 3, line 9, after "diversion" insert "**test program under IC 11-**
 24 **12-3.7:**".
 25 Renumber all SECTIONS consecutively.
 (Reference is to SB 139 as printed January 16, 2004.)

Senator LONG