

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 45 be amended to read as follows:

- 1 Page 10 between lines 21 and 22, begin a new paragraph and insert:
2 "SECTION 11. IC 35-50-2-2, AS AMENDED BY P.L.151-2006,
3 SECTION 28, AS AMENDED BY P.L.140-2006, SECTION 36, AND
4 AS AMENDED BY P.L.173-2006, SECTION 36, IS CORRECTED
5 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
6 2007]: Sec. 2. (a) The court may suspend any part of a sentence for a
7 felony, except as provided in this section or in section 2.1 of this
8 chapter.
9 (b) With respect to the following crimes listed in this subsection, the
10 court may suspend only that part of the sentence that is in excess of the
11 minimum sentence, unless the court has approved placement of the
12 offender in a forensic diversion program under IC 11-12-3.7:
13 (1) The crime committed was a Class A or Class B felony and the
14 person has a prior unrelated felony conviction.
15 (2) The crime committed was a Class C felony and less than seven
16 (7) years have elapsed between the date the person was
17 discharged from probation, imprisonment, or parole, whichever
18 is later, for a prior unrelated felony conviction and the date the
19 person committed the Class C felony for which the person is
20 being sentenced.
21 (3) The crime committed was a Class D felony and less than three
22 (3) years have elapsed between the date the person was
23 discharged from probation, imprisonment, or parole, whichever
24 is later, for a prior unrelated felony conviction and the date the

1 person committed the Class D felony for which the person is
 2 being sentenced. However, the court may suspend the minimum
 3 sentence for the crime only if the court orders home detention
 4 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
 5 sentence specified for the crime under this chapter.

6 (4) The felony committed was:

7 (A) murder (IC 35-42-1-1);

8 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
 9 causing death;

10 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;

11 (D) kidnapping (IC 35-42-3-2);

12 (E) confinement (IC 35-42-3-3) with a deadly weapon;

13 (F) rape (IC 35-42-4-1) as a Class A felony;

14 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
 15 felony;

16 (H) child molesting (IC 35-42-4-3) as a ~~Class A~~ or Class B
 17 felony;

18 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
 19 with a deadly weapon;

20 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
 21 injury;

22 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
 23 or with a deadly weapon;

24 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
 25 weapon;

26 (M) escape (IC 35-44-3-5) with a deadly weapon;

27 (N) rioting (IC 35-45-1-2) with a deadly weapon;

28 (O) dealing in cocaine *or* a narcotic drug *or* *methamphetamine*
 29 (IC 35-48-4-1) if the court finds the person possessed a firearm
 30 (as defined in IC 35-47-1-5) at the time of the offense, or the
 31 person delivered or intended to deliver to a person under
 32 eighteen (18) years of age at least three (3) years junior to the
 33 person and was on a school bus or within one thousand (1,000)
 34 feet of:

35 (i) school property;

36 (ii) a public park;

37 (iii) a family housing complex; or

38 (iv) a youth program center;

39 *(P) dealing in methamphetamine (IC 35-48-4-1.1) if the court*
 40 *finds the person possessed a firearm (as defined in*
 41 *IC 35-47-1-5) at the time of the offense, or the person*
 42 *delivered or intended to deliver the methamphetamine pure or*
 43 *adulterated to a person under eighteen (18) years of age at*
 44 *least three (3) years junior to the person and was on a school*
 45 *bus or within one thousand (1,000) feet of:*

46 (i) school property;

- 1 (ii) a public park;
 2 (iii) a family housing complex; or
 3 (iv) a youth program center;
 4 ~~(P)~~ (Q) dealing in a schedule I, II, or III controlled substance
 5 (IC 35-48-4-2) if the court finds the person possessed a firearm
 6 (as defined in IC 35-47-1-5) at the time of the offense, or the
 7 person delivered or intended to deliver to a person under
 8 eighteen (18) years of age at least three (3) years junior to the
 9 person and was on a school bus or within one thousand (1,000)
 10 feet of:
 11 (i) school property;
 12 (ii) a public park;
 13 (iii) a family housing complex; or
 14 (iv) a youth program center;
 15 ~~(R)~~ (R) an offense under IC 9-30-5 (operating a vehicle while
 16 intoxicated) and the person who committed the offense has
 17 accumulated at least two (2) prior unrelated convictions under
 18 IC 9-30-5;
 19 ~~(S)~~ (S) an offense under IC 9-30-5-5(b) (operating a vehicle
 20 while intoxicated causing death); or
 21 ~~(T)~~ (T) aggravated battery (IC 35-42-2-1.5); or
 22 **(U) a sex crime against a child that is a Class A felony**
 23 **under IC 35-42-4.**
 24 (c) Except as provided in subsection (e), whenever the court
 25 suspends a sentence for a felony, it shall place the person on probation
 26 under IC 35-38-2 for a fixed period to end not later than the date that
 27 the maximum sentence that may be imposed for the felony will expire.
 28 (d) The minimum sentence for a person convicted of voluntary
 29 manslaughter may not be suspended unless the court finds at the
 30 sentencing hearing that the crime was not committed by means of a
 31 deadly weapon.
 32 (e) Whenever the court suspends that part of ~~an~~ a sex offender's (as
 33 defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) sentence that is suspendible under
 34 subsection (b), the court shall place the sex offender on probation under
 35 IC 35-38-2 for not more than ten (10) years.
 36 (f) An additional term of imprisonment imposed under
 37 IC 35-50-2-11 may not be suspended.
 38 (g) A term of imprisonment imposed under IC 35-47-10-6 or
 39 IC 35-47-10-7 may not be suspended if the commission of the offense
 40 was knowing or intentional.
 41 (h) A term of imprisonment imposed for an offense under
 42 IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be
 43 suspended."
 44 SECTION 12. IC 35-50-2-4, AS AMENDED BY P.L.71-2005,
 45 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 46 JULY 1, 2007]: Sec. 4. **(a) Except as provided in subsection (b), a**

1 person who commits a Class A felony shall be imprisoned for a fixed
2 term of between twenty (20) and fifty (50) years, with the advisory
3 sentence being thirty (30) years. In addition, the person may be fined
4 not more than ten thousand dollars (\$10,000).

5 **(b) A person who commits a sex crime against a child that is a**
6 **Class A felony under IC 35-42-4 shall be imprisoned for a fixed**
7 **term of between twenty-five (25) and fifty (50) years with the**
8 **advisory sentence being thirty (30) years. In addition, the person**
9 **may be fined not more than ten thousand dollars (\$10,000).**

10 SECTION 13. [EFFECTIVE JULY 1, 2007] **IC 35-50-2-2(b)(4)(U)**
11 **and IC 35-50-2-4(b), both as added by this act, apply only to crimes**
12 **committed after June 30, 2007."**

13 Renumber all SECTIONS consecutively.

(Reference is to ESB 45 as printed April 6, 2007.)

Representative Walorski