
SENATE BILL No. 558

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-31; IC 2-5.5-5.

Synopsis: Filing of criminal law bills. Requires the criminal law and sentencing policy study committee to review all requests for proposed legislative or constitutional changes in criminal law, criminal procedure, the law governing delinquent acts, or juvenile court procedures related to alleged delinquent acts before they are considered by the house of representatives or senate, unless the proposed change in criminal law has been approved by certain legislative committees and specific amounts of money have been appropriated to the department of correction if certain department expenses will increase. Requires that bills and joint resolutions that include any of these matters must be assigned to the appropriate standing criminal law committee of the house of representatives or senate on first reading of the bill or joint resolution and must include certain information concerning the fiscal impact of the proposed change. Delays the effective date of a proposal until the estimated amount of any increase in the expenditures of the department of correction resulting from enactment of the proposal is determined. Relocates the statute establishing the criminal law and sentencing policy study committee.

Effective: July 1, 2011.

Bray

January 20, 2011, read first time and referred to Committee on Judiciary.

C
o
p
y



Introduced

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C
O
P
Y

SENATE BILL No. 558

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 2-5-31 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]:
4 **Chapter 31. Criminal Law and Sentencing Policy Study**
5 **Committee**
6 **Sec. 1. As used in this chapter, "committee" refers to the**
7 **criminal law and sentencing policy study committee established by**
8 **section 6 of this chapter.**
9 **Sec. 2. As used in this chapter "confined" has the meaning set**
10 **forth in IC 11-8-1-6.**
11 **Sec. 3. As used in this chapter, "delinquent act" means an act**
12 **described in IC 31-37-1.**
13 **Sec. 4. As used in this chapter, "delinquent child" has the**
14 **meaning set forth in IC 31-9-2-37.**
15 **Sec. 5. As used in this chapter, "offender" has the meaning set**
16 **forth in IC 11-8-1-9.**
17 **Sec. 6. The criminal law and sentencing policy study committee**



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

is established.

Sec. 7. The committee consists of fourteen (14) members appointed as follows:

- (1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, appointed by the president pro tempore of the senate.**
- (2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, appointed by the speaker of the house of representatives.**
- (3) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.**
- (4) The executive director of the public defender council of Indiana or the executive director's designee.**
- (5) One (1) person appointed by the members of the Probation Officers' Professional Association who:**
 - (A) has experience in administering probation programs; and**
 - (B) is a member of the Probation Officers' Professional Association of Indiana.**
- (6) One (1) circuit or superior court judge who exercises criminal or juvenile jurisdiction, appointed by the chief justice of the supreme court.**
- (7) The commissioner of the department of correction.**
- (8) The chairman of the parole board.**

Sec. 8. The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

Sec. 9. If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

Sec. 10. A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

Sec. 11. If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

Sec. 12. The committee shall submit a final report of the results of the committee's study to the legislative council before November 1 of even-numbered years. The report must be in an electronic

**C
O
P
Y**



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

format under IC 5-14-6.

Sec. 13. (a) The Indiana criminal justice institute shall provide staff support to the committee to prepare:

- (1) minutes of each meeting; and
- (2) the final report.

(b) The department of correction shall provide staff to the committee, as requested by the committee. The committee may request that the department prepare a fiscal analysis for a proposal being considered under section 18 of this chapter or review and comment on a fiscal analysis prepared by the staff of the committee under section 18 of this chapter.

Sec. 14. The legislative services agency shall provide staff support to the committee to:

- (1) advise the committee on legal matters, criminal procedures, and legal research;
- (2) carry out the duties of the committee under section 18 of this chapter; and
- (3) draft potential legislation.

Sec. 15. Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

Sec. 16. The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

Sec. 17. Except as otherwise specifically provided by this chapter, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this chapter shall be paid from appropriations to the legislative council and the legislative services agency.

Sec. 18. (a) The committee is established to evaluate criminal laws, sentencing laws, and policies as they relate to:

- (1) the purposes of the criminal justice and corrections systems;
- (2) the availability of sentencing options; and
- (3) the inmate population in department of correction facilities.

If, based on the committee's evaluation under this subsection, the committee determines that changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

C
O
P
Y



- 1 **(b) The committee shall do the following:**
- 2 **(1) Conduct a continuing study of the laws relating to:**
- 3 **(A) the investigation of crimes;**
- 4 **(B) the prosecution of crimes;**
- 5 **(C) criminal procedures;**
- 6 **(D) alternative sentencing programs;**
- 7 **(E) the department of correction;**
- 8 **(F) parole;**
- 9 **(G) probation;**
- 10 **(H) community corrections;**
- 11 **(I) home detention programs;**
- 12 **(J) criminal registries;**
- 13 **(K) victim rights;**
- 14 **(L) the classification of criminal offenses into felony and**
- 15 **misdemeanor categories;**
- 16 **(M) sex offenders; and**
- 17 **(N) juvenile offenders.**
- 18 **(2) Study federal requirements or incentives for states to pass**
- 19 **certain laws or establish specific programs.**
- 20 **(3) Determine the long range needs of the criminal justice and**
- 21 **corrections systems and recommend policy priorities for those**
- 22 **systems.**
- 23 **(4) Identify critical problems in the criminal justice and**
- 24 **corrections systems and recommend strategies to solve the**
- 25 **problems.**
- 26 **(5) Assess the cost effectiveness of the use of state and local**
- 27 **funds in the criminal justice and corrections systems.**
- 28 **(6) Propose plans, programs, and legislation for improving the**
- 29 **effectiveness of the criminal justice and corrections systems.**
- 30 **(7) Carry out the duties of the committee under section 19 of**
- 31 **this chapter.**
- 32 **(c) The committee may study other topics assigned by the**
- 33 **legislative council or as directed by the committee chair.**
- 34 **(d) The committee may meet as often as necessary to carry out**
- 35 **the responsibilities of the committee under this section, section 19**
- 36 **of this chapter, or any other law, including meeting on a date**
- 37 **during a session of the general assembly.**
- 38 **Sec. 19. (a) The committee shall do the following:**
- 39 **(1) Review and report to the general assembly on all requests**
- 40 **for proposed legislative or constitutional changes in:**
- 41 **(A) criminal law;**
- 42 **(B) criminal procedure;**

**C
O
P
Y**



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (C) the law governing delinquent acts; or
- (D) the law governing juvenile court procedures related to delinquent acts and children alleged to be or adjudicated to be delinquent children.

The proposals to which this subdivision applies include proposals to add new crimes for which confinement is authorized, that increase the period of confinement for a crime, that raise the classification of a crime from a misdemeanor to a felony, that impose minimum or mandatory terms of confinement, or that modify the law governing release of offenders. Except as provided in subsection (f)(2), the review must include all proposed legislative or constitutional changes submitted to the committee by a legislator and all proposed legislative or constitutional changes contained in a legislative bill, joint resolution, floor amendment or motion, committee amendment, conference committee report, or report of the committee of the whole that is filed with the house of representatives or the senate or offered in a committee of the house of representatives or senate.

(2) Conduct research concerning requests for legislative changes described in subdivision (1). The research may include conducting surveys sampling members of the bar, members of the judiciary, and local officials to determine needs and problems.

(3) Conduct public hearings, as determined by the committee, concerning legislative and constitutional changes described in subdivision (1). The committee shall hold at least one (1) public hearing on each request submitted to the committee.

(4) Submit a report to the general assembly in an electronic format under IC 5-14-6 concerning each request presented to the committee. The report must include the following:

- (A) A recommendation on each proposal submitted to the committee.
- (B) If the committee recommends a change in the constitution or the law, the following:
 - (i) A draft of legislation implementing the changes.
 - (ii) A fiscal analysis of the increase or decrease in operating costs of state and local governments that are likely to occur if the recommended changes are implemented.
 - (iii) Summaries of any research supporting the

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

recommended changes.

(iv) Summaries of public hearings held concerning the recommended changes.

(b) The fiscal analysis required under subsection (a)(4) must include the following information:

(1) The estimated effect of the proposal on the offender population of the department and the time that offenders will be confined by the department.

(2) The estimated effect of the proposal on the population of individuals who are convicted of a crime or adjudicated as a delinquent child and are confined in a county jail, in a community corrections program, or otherwise under the supervision of a political subdivision and on the length of time that these individuals will be receiving these services from the political subdivision.

(3) Either:

(A) an estimate of the amount of the increase or decrease in annual operating costs of the department that may occur if the proposal is implemented; or

(B) a statement that the fiscal impact of the proposed change on the department cannot be determined, if the fiscal impact of the proposal cannot reasonably be estimated.

(4) Either:

(A) an estimate of the amount of the increase or decrease in annual operating costs to political subdivisions that may occur if the proposal is implemented; or

(B) a statement that the fiscal impact of the proposed change on political subdivisions cannot be determined, if the fiscal impact of the proposal cannot reasonably be estimated.

(5) If a proposed change described in subsection (a) may have the effect of increasing the confined offender population, increasing the length of time that an offender may be confined by the department, or otherwise increasing the operating costs of the department, a statement in substantially the following form:

"If _____ (insert the amount determined under subdivision (3)(A), if subdivision 3(A) applies, or fifty thousand dollars (\$50,000), if subdivision (3)(B) applies) is not appropriated to the department for the state fiscal year beginning _____ and ending _____ (insert the

C
O
P
Y



1 beginning and ending date for the first full state fiscal year
 2 in which the proposed change would otherwise be
 3 effective), the effective date of the proposed change is
 4 delayed until July 1 of the first full state fiscal year for
 5 which the general assembly makes a one (1) year
 6 appropriation of this amount to the department for the
 7 purposes of implementing the proposed change."

8 Estimates under subdivisions (3)(A) and (4)(A) must identify the
 9 highest single year increase or decrease in annual operating costs
 10 that may result if the proposal is implemented. The estimate must
 11 be based on an analysis of cost projections for at least three (3) full
 12 years. Costs for the department must be estimated on a state fiscal
 13 year basis and costs of political subdivisions must be estimated on
 14 a calendar year basis.

15 (c) After June 30, 2011, a legislative bill or joint resolution filed
 16 in the senate that includes a proposed change described in
 17 subsection (a)(1) must be assigned on first reading to one (1) of the
 18 following committees:

- 19 (1) Corrections, criminal, and civil matters.
- 20 (2) Judiciary.

21 If a proposed change described in subsection (a)(1) is amended into
 22 a vehicle bill or vehicle joint resolution in a committee other than
 23 a committee described in subdivision (1) or (2), the bill or joint
 24 resolution, on adoption of the committee report, shall be reassigned
 25 to a committee described in subdivision (1) or (2).

26 (d) After June 30, 2011, a legislative bill or joint resolution filed
 27 in the house of representatives that includes a proposed change
 28 described in subsection (a)(1) must be assigned on first reading to
 29 one (1) of the following committees:

- 30 (1) Courts and criminal code.
- 31 (2) Judiciary.

32 If a proposed change described in subsection (a)(1) is amended into
 33 a vehicle bill or vehicle joint resolution in a committee other than
 34 a committee described in subdivision (1) or (2), the bill or joint
 35 resolution, on adoption of the committee report, shall be reassigned
 36 to a committee described in subdivision (1) or (2).

37 (e) Except as provided in subsection (i) and subject to subsection
 38 (f), after June 30, 2011, a legislative bill, a joint resolution, a floor
 39 amendment or motion, a committee amendment, a conference
 40 committee report, or a report of a committee of the whole
 41 containing a proposed change in the law described in subsection
 42 (a)(1) is ineligible for consideration by the house of representatives,

C
 O
 P
 Y



1 the senate, or any committee of the house of representatives or
 2 senate (including a joint committee of the house of representatives
 3 and senate) unless:
 4 (1) the language of the proposed change has been
 5 recommended for enactment by the committee; and
 6 (2) the digest printed on the document containing the
 7 proposed change or the body of the document includes the
 8 following information:
 9 (A) A statement that the proposed change has been
 10 recommended by the criminal law and sentencing policy
 11 study committee.
 12 (B) If the proposed change may have the effect of
 13 increasing or decreasing the operating costs of the
 14 department or a political subdivision, the fiscal impact
 15 information described in subsection (b)(3) and (b)(4).
 16 (C) If the proposed change is likely to have the effect of
 17 increasing the confined offender population, increasing the
 18 length of time that an offender may be confined by the
 19 department, or otherwise increasing the operating costs of
 20 the department, the information described in subsection
 21 (b)(5).
 22 (f) The rules of procedure for the house of representatives or
 23 senate may provide the following:
 24 (1) That a bill or resolution containing a proposed legislative
 25 change described in subsection (a)(1) may be first considered
 26 by one (1) or more other committees before the second
 27 reading of the bill or joint resolution if the bill or joint
 28 resolution (on adoption of the committee report of the
 29 committee reviewing the bill or joint resolution last) is
 30 reassigned to the committee for review.
 31 (2) That a legislative bill, a joint resolution, a floor
 32 amendment or motion, a committee amendment, a conference
 33 committee report, or a report of a committee of the whole
 34 need not be committed or recommitted to the committee if
 35 substantially similar language has been reviewed and
 36 recommended for enactment by the committee after the
 37 conclusion of the immediately preceding session of the general
 38 assembly. Language that potentially increases the time that an
 39 offender or delinquent child could be held in a penal facility
 40 or other secure facility beyond the time recommended by the
 41 committee may not be treated as substantially similar
 42 language.

COPY



1 (g) A motion to enforce this section made by a member of any
 2 committee is in order at any time and shall be considered by the
 3 committee considering a legislative measure that includes a
 4 proposed change described in subsection (a)(1) before the
 5 committee considering the legislative measure considers any other
 6 motion or amendment on the legislative measure. A motion to
 7 enforce this section made by a member of the house of
 8 representatives or senate in a meeting of the chamber in which the
 9 individual is a member is in order at any time and shall be
 10 considered by the members of the house of representatives or
 11 senate, respectively, before considering any other motion, report,
 12 or amendment on a legislative measure that includes a proposed
 13 change described in subsection (a)(1). The house of representatives
 14 is the judge of compliance with this section by the house of
 15 representatives or a committee of the house of representatives. The
 16 senate is the judge of compliance with this section by the senate or
 17 a committee of the senate.

18 (h) This subsection applies if a law or constitutional amendment
 19 enacts a proposed change described in subsection (a) that may have
 20 the effect of increasing the confined offender population, increasing
 21 the length of time that an offender may be in confined by the
 22 department, or otherwise increasing the operating costs of the
 23 department. If the amount determined under subsection (b)(3)(A)
 24 (if subsection (b)(3)(A) applies), fifty thousand dollars (\$50,000) (if
 25 subsection (b)(3)(B) applies), or an amount determined under
 26 subsection (i) is not appropriated to the department for the first
 27 full state fiscal year in which the proposed change would otherwise
 28 be effective, the effective date of the proposed change is delayed
 29 until July 1 of the first full state fiscal year for which the general
 30 assembly makes a one (1) year appropriation of this amount to the
 31 department for the purposes of implementing the proposed change.

32 (i) After June 30, 2011, a legislative bill, a joint resolution, a
 33 floor amendment or motion, a committee amendment, a conference
 34 committee report, or a report of a committee of the whole
 35 containing a proposed change in the law described in subsection
 36 (a)(1) is not subject to subsection (e) if any of the following apply:

37 (1) The proposed change in the law may have the effect of
 38 increasing the confined offender population, increasing the
 39 length of time that an offender may be confined by the
 40 department, or otherwise increasing the operating costs of the
 41 department based on a fiscal analysis of the proposed change
 42 in the law by the legislative services agency as described in

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

subsection (b), and both the senate committee on appropriations and the house committee on ways and means have approved an appropriation to the department that is at least equal to the amount of money determined in the fiscal analysis described in subsection (b)(5).

(2) One (1) of the following committees in the senate votes to approve the proposed change in the law:

- (A) Corrections, criminal, and civil matters.
- (B) Judiciary.

(3) One (1) of the following committees in the house votes to approved the proposed change in the law:

- (A) Courts and criminal code.
- (B) Judiciary.

(j) The committee report of a committee that approves a proposed change in the law described in subsection (i) must indicate that the language of the proposed change has been recommended for enactment. The digest printed on the bill containing the proposed change must include the following information:

- (1) If the proposed change may have the effect of increasing or decreasing the operating costs of the department or a political subdivision, the fiscal impact information described in subsection (b)(3) and (b)(4).
- (2) If the proposed change is likely to have the effect of increasing the confined offender population, increasing the length of time that an offender may be confined by the department, or otherwise increasing the operating costs of the department, the information described in subsection (b)(5).
- (3) A statement that funds have been appropriated to the department as described in subsection (b)(5).

SECTION 2. IC 2-5.5-5 IS REPEALED [EFFECTIVE JULY 1, 2011].

C
O
P
Y

