
HOUSE BILL No. 1155

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-1-17.

Synopsis: Reduction or suspension of sentences. Provides that if a person is convicted after June 30, 2011, at the time the person is sentenced, the court that sentences the person may set a date after which the court may conduct at least one hearing: (1) to consider modifying the person's sentence; (2) that is held after the date the convicted person begins serving the person's sentence; (3) at which the convicted person is present; and (4) of which the prosecuting attorney has been notified. Allows the court to reduce or suspend the person's sentence after the hearing. (Current law allows a court to reduce or suspend a convicted person's sentence after a hearing is held: (1) if not more than 365 days have passed since the person began serving the person's sentence; or (2) if more than 365 days have passed since the person began serving the person's sentence, only with the approval of the prosecuting attorney or if the person is placed in a community corrections program.)

Effective: July 1, 2011.

Thompson

January 10, 2011, read first time and referred to Committee on Courts and Criminal Code.

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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.

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HOUSE BILL No. 1155



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 35-38-1-17, AS AMENDED BY P.L.1-2010,
2 SECTION 141, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: Sec. 17. (a) **Except as provided in**
4 **subsection (c)**, within three hundred sixty-five (365) days after:
5 (1) a convicted person begins serving the person's sentence;
6 (2) a hearing is held:
7 (A) at which the convicted person is present; and
8 (B) of which the prosecuting attorney has been notified; and
9 (3) the court obtains a report from the department of correction
10 concerning the convicted person's conduct while imprisoned;
11 the court may reduce or suspend the sentence. The court must
12 incorporate its reasons in the record.
13 (b) **Except as provided in subsection (c)**, if more than three
14 hundred sixty-five (365) days have elapsed since the convicted person
15 began serving the sentence and after a hearing at which the convicted
16 person is present, the court may reduce or suspend the sentence,
17 subject to the approval of the prosecuting attorney. However, if in a



1 sentencing hearing for a convicted person conducted after June 30,
 2 2001, the court could have placed the convicted person in a community
 3 corrections program as an alternative to commitment to the department
 4 of correction, the court may modify the convicted person's sentence
 5 under this section without the approval of the prosecuting attorney to
 6 place the convicted person in a community corrections program under
 7 IC 35-38-2.6.

8 **(c) If a person is convicted after June 30, 2011, at the time the**
 9 **convicted person is sentenced, the court that sentences the person**
 10 **may set a date after which the court may conduct at least one (1)**
 11 **hearing:**

12 **(1) to consider modifying the person's sentence;**

13 **(2) that is held after the date:**

14 **(A) the convicted person begins serving the person's**
 15 **sentence; and**

16 **(B) the court obtains a report from the department of**
 17 **correction concerning the convicted person's conduct while**
 18 **imprisoned;**

19 **(3) at which the convicted person is present; and**

20 **(4) of which the prosecuting attorney has been notified.**

21 **After the hearing, the court may reduce or suspend the convicted**
 22 **person's sentence. The court must incorporate its reasons in the**
 23 **record.**

24 ~~(c)~~ **(d)** The court must give notice of the order to reduce or suspend
 25 the sentence under this section to the victim (as defined in
 26 IC 35-35-3-1) of the crime for which the convicted person is serving
 27 the sentence.

28 ~~(d)~~ **(e)** The court may suspend a sentence for a felony under this
 29 section only if suspension is permitted under IC 35-50-2-2.

30 ~~(e)~~ **(f)** The court may deny a request to suspend or reduce a sentence
 31 under this section without making written findings and conclusions.

32 ~~(f)~~ **(g)** Notwithstanding subsections (a), ~~and~~ (b), **and (c)**, the court
 33 is not required to conduct a hearing before reducing or suspending a
 34 sentence if:

35 (1) the prosecuting attorney has filed with the court an agreement
 36 of the reduction or suspension of the sentence; and

37 (2) the convicted person has filed with the court a waiver of the
 38 right to be present when the order to reduce or suspend the
 39 sentence is considered.

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