

---

---

# SENATE BILL No. 266

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-50-2-2.

**Synopsis:** Neglect of a dependent. Provides that, for the offense of neglect of a dependent as a Class A or Class B felony, the court is authorized to suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program.

**Effective:** July 1, 2013.

---

---

### Miller Patricia

---

---

January 8, 2013, read first time and referred to Committee on Judiciary.

---

---

C  
O  
P  
Y



First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C  
o  
p  
y

## SENATE BILL No. 266



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 35-50-2-2, AS AMENDED BY P.L.126-2012,
- 2 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2013]: Sec. 2. (a) The court may suspend any part of a
- 4 sentence for a felony, except as provided in this section or in section
- 5 2.1 of this chapter.
- 6 (b) Except as provided in subsection (i), with respect to the
- 7 following crimes listed in this subsection, the court may suspend only
- 8 that part of the sentence that is in excess of the minimum sentence,
- 9 unless the court has approved placement of the offender in a forensic
- 10 diversion program under IC 11-12-3.7:
- 11 (1) The crime committed was a Class A felony or Class B felony
- 12 and the 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



- 1 being sentenced.
- 2 (3) The crime committed was a Class D felony and less than three
- 3 (3) years have elapsed between the date the person was
- 4 discharged from probation, imprisonment, or parole, whichever
- 5 is later, for a prior unrelated felony conviction and the date the
- 6 person committed the Class D felony for which the person is
- 7 being sentenced. However, the court may suspend the minimum
- 8 sentence for the crime only if the court orders home detention
- 9 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
- 10 sentence specified for the crime under this chapter.
- 11 (4) The felony committed was:
- 12 (A) murder (IC 35-42-1-1);
- 13 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
- 14 causing death;
- 15 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- 16 (D) kidnapping (IC 35-42-3-2);
- 17 (E) confinement (IC 35-42-3-3) with a deadly weapon;
- 18 (F) rape (IC 35-42-4-1) as a Class A felony;
- 19 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
- 20 felony;
- 21 (H) except as provided in subsection (i), child molesting
- 22 (IC 35-42-4-3) as a Class A or Class B felony, unless:
- 23 (i) the felony committed was child molesting as a Class B
- 24 felony;
- 25 (ii) the victim was not less than twelve (12) years old at the
- 26 time the offense was committed;
- 27 (iii) the person is not more than four (4) years older than the
- 28 victim, or more than five (5) years older than the victim if
- 29 the relationship between the person and the victim was a
- 30 dating relationship or an ongoing personal relationship (not
- 31 including a family relationship);
- 32 (iv) the person did not have a position of authority or
- 33 substantial influence over the victim; and
- 34 (v) the person has not committed another sex offense (as
- 35 defined in IC 11-8-8-5.2) (including a delinquent act that
- 36 would be a sex offense if committed by an adult) against any
- 37 other person;
- 38 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
- 39 with a deadly weapon;
- 40 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 41 injury;
- 42 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury

C  
o  
p  
y



- 1 or with a deadly weapon;
- 2 (L) resisting law enforcement (IC 35-44.1-3-1) with a deadly
- 3 weapon;
- 4 (M) escape (IC 35-44.1-3-4) with a deadly weapon;
- 5 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 6 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the
- 7 court finds the person possessed a firearm (as defined in
- 8 IC 35-47-1-5) at the time of the offense, or the person
- 9 delivered or intended to deliver to a person under eighteen
- 10 (18) years of age at least three (3) years junior to the person
- 11 and was on a school bus or within one thousand (1,000) feet
- 12 of:
- 13 (i) school property;
- 14 (ii) a public park;
- 15 (iii) a family housing complex; or
- 16 (iv) a youth program center;
- 17 (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court
- 18 finds the person possessed a firearm (as defined in
- 19 IC 35-47-1-5) at the time of the offense, or the person
- 20 delivered or intended to deliver the methamphetamine pure or
- 21 adulterated to a person under eighteen (18) years of age at
- 22 least three (3) years junior to the person and was on a school
- 23 bus or within one thousand (1,000) feet of:
- 24 (i) school property;
- 25 (ii) a public park;
- 26 (iii) a family housing complex; or
- 27 (iv) a youth program center;
- 28 (Q) dealing in a schedule I, II, or III controlled substance
- 29 (IC 35-48-4-2) 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 (R) an offense under IC 9-30-5 (operating a vehicle while
- 40 intoxicated) and the person who committed the offense has
- 41 accumulated at least two (2) prior unrelated convictions under
- 42 IC 9-30-5;

COPY



1 (S) an offense under IC 9-30-5-5(b) (operating a vehicle while  
 2 intoxicated causing death);  
 3 (T) aggravated battery (IC 35-42-2-1.5); ~~or~~  
 4 (U) disarming a law enforcement officer (IC 35-44.1-3-2); **or**  
 5 **(V) neglect of a dependent (IC 35-46-1-4) as a Class A or**  
 6 **Class B felony.**

7 (c) Except as provided in subsection (e), whenever the court  
 8 suspends a sentence for a felony, it shall place the person on probation  
 9 under IC 35-38-2 for a fixed period to end not later than the date that  
 10 the maximum sentence that may be imposed for the felony will expire.

11 (d) The minimum sentence for a person convicted of voluntary  
 12 manslaughter may not be suspended unless the court finds at the  
 13 sentencing hearing that the crime was not committed by means of a  
 14 deadly weapon.

15 (e) Whenever the court suspends that part of the sentence of a sex  
 16 or violent offender (as defined in IC 11-8-8-5) that is suspendible under  
 17 subsection (b), the court shall place the sex or violent offender on  
 18 probation under IC 35-38-2 for not more than ten (10) years.

19 (f) An additional term of imprisonment imposed under  
 20 IC 35-50-2-11 may not be suspended.

21 (g) A term of imprisonment imposed under IC 35-47-10-6 or  
 22 IC 35-47-10-7 may not be suspended if the commission of the offense  
 23 was knowing or intentional.

24 (h) A term of imprisonment imposed for an offense under  
 25 IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be  
 26 suspended.

27 (i) If a person is:  
 28 (1) convicted of child molesting (IC 35-42-4-3) as a Class A  
 29 felony against a victim less than twelve (12) years of age; and  
 30 (2) at least twenty-one (21) years of age;  
 31 the court may suspend only that part of the sentence that is in excess of  
 32 thirty (30) years.

C  
O  
P  
Y

