
SENATE BILL No. 443

DIGEST OF INTRODUCED BILL

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

Synopsis: Sentence modification. Permits a court, without the consent of the prosecuting attorney, to modify the sentence of a convicted person more than one year after the person began serving the person's sentence if: (1) the convicted person is eligible for placement in a community corrections program; or (2) the convicted person would be eligible for placement in a community corrections program if the person were being sentenced at the time the court makes its sentence modification ruling.

Effective: July 1, 2013.

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January 10, 2013, read first time and referred to Committee on Corrections & Criminal Law.

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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.

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SENATE BILL No. 443



A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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.114-2012,
2 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 17. (a) Within three hundred sixty-five (365) days
4 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) **The following apply** if more than three hundred sixty-five (365)
14 days have elapsed since the convicted person began serving the
15 **person's** sentence and **after** a hearing **has been held** at which the
16 convicted person **is was** present:
17 (1) The court may reduce or suspend the **person's** sentence,



1 subject to the approval of the prosecuting attorney.

2 **(2) However, If: in a sentencing hearing for a convicted person**
 3 **conducted after June 30, 2001, the court could have placed**

4 **(A) the convicted person is eligible for placement** in a
 5 community corrections program as an alternative to
 6 commitment to the department of correction; **or**

7 **(B) the convicted person would be eligible for placement in**
 8 **a community corrections program if the convicted person**
 9 **were being sentenced at the time the court makes its ruling**
 10 **under this subdivision;**

11 the court may modify the convicted person's sentence under this
 12 section without the approval of the prosecuting attorney to place
 13 the convicted person in a community corrections program under
 14 IC 35-38-2.6.

15 (c) The court must give notice of the order to reduce or suspend the
 16 sentence under this section to the victim (as defined in
 17 IC 35-31.5-2-348) of the crime for which the convicted person is
 18 serving the sentence.

19 (d) The court may suspend a sentence for a felony under this section
 20 only if suspension is permitted under IC 35-50-2-2.

21 (e) The court may deny a request to suspend or reduce a sentence
 22 under this section without making written findings and conclusions.

23 (f) Notwithstanding subsections (a) and (b), the court is not required
 24 to conduct a hearing before reducing or suspending a sentence if:

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

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

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