

SENATE BILL No. 541

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-14-3-7; IC 35-31.5-2; IC 35-38-1.

Synopsis: Sentence modification. Provides that a court may not modify the sentence of a person convicted of a crime of violence, and specifies that a person seeking to modify the sentence of a crime committed before July 1, 2014, may only do so by using the version of the sentence modification statute that was in effect on June 30, 2014.

Effective: July 1, 2015.

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January 14, 2015, read first time and referred to Committee on Judiciary.



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 541

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 11-14-3-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) Upon successful
3 completion of boot camp by a youthful offender, the department shall
4 return the youthful offender to the sentencing court for further
5 disposition under IC 35-38-1-17 **or IC 35-38-1-17.1.**
6 (b) When a youthful offender is returned to the sentencing court for
7 further disposition, the court:
8 (1) shall suspend the remainder of the youthful offender's
9 sentence of incarceration, and place the youthful offender on
10 probation;
11 (2) shall order the youthful offender to participate in boot camp
12 transition under IC 11-14-4 for one (1) year as a condition of
13 probation; and
14 (3) may order the youthful offender to comply with other
15 conditions of probation set by the court under IC 35-38-2.
16 (c) If the youthful offender violates the conditions of probation or



1 conditions of the transition, the court may revoke probation.

2 SECTION 2. IC 35-31.5-2-79, AS ADDED BY P.L.114-2012,
3 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2015]: Sec. 79. "Crime of violence", for purposes of
5 IC 35-50-1-2 **and IC 35-38-1-17**, has the meaning set forth in
6 IC 35-50-1-2(a).

7 SECTION 3. IC 35-31.5-2-348, AS ADDED BY P.L.114-2012,
8 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2015]: Sec. 348. (a) "Victim", for purposes of IC 35-38-1-9,
10 **and IC 35-38-1-17, and IC 35-38-1-17.1**, means a person who has
11 suffered harm as a result of a crime.

12 (b) "Victim", for purposes of IC 35-37-6, has the meaning set forth
13 in IC 35-37-6-3.

14 (c) "Victim", for purposes of IC 35-38-7, has the meaning set forth
15 in IC 35-38-7-4.

16 (d) "Victim", for purposes of IC 35-40, has the meaning set forth in
17 IC 35-40-4-8.

18 (e) "Victim", for purposes of IC 35-45-10, has the meaning set forth
19 in IC 35-45-10-4.

20 SECTION 4. IC 35-38-1-17, AS AMENDED BY P.L.168-2014,
21 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2015]: Sec. 17. (a) This section does not apply to:

23 (1) a credit restricted felon;

24 (2) **a person convicted of a crime of violence (as defined in**
25 **IC 35-50-1-2); or**

26 (3) **an offense committed before July 1, 2014.**

27 (b) Not later than three hundred sixty-five (365) days after:

28 (1) a convicted person begins serving the person's sentence; and

29 (2) the court obtains a report from the department of correction
30 concerning the convicted person's conduct while imprisoned;

31 the court may reduce or suspend the sentence and impose a sentence
32 that the court was authorized to impose at the time of sentencing. The
33 court must incorporate its reasons in the record.

34 (c) If more than three hundred sixty-five (365) days have elapsed
35 since the convicted person began serving the sentence, the court may
36 reduce or suspend the sentence and impose a sentence that the court
37 was authorized to impose at the time of sentencing. The court must
38 incorporate its reasons in the record.

39 (d) If the court sets a hearing on a petition under this section, the
40 court must give notice to the prosecuting attorney and the prosecuting
41 attorney must give notice to the victim (as defined in IC 35-31.5-2-348)
42 of the crime for which the convicted person is serving the sentence.



1 (e) The court may suspend a sentence for a felony under this section
2 only if suspension is permitted under IC 35-50-2-2.2.

3 (f) The court may deny a request to suspend or reduce a sentence
4 under this section without making written findings and conclusions.

5 (g) The court is not required to conduct a hearing before reducing
6 or suspending a sentence under this section if:

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

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

12 (h) A convicted person may file a petition for sentence modification
13 under this section:

14 (1) not more than one (1) time in any three hundred sixty-five
15 (365) day period; and

16 (2) a maximum of two (2) times during any consecutive period of
17 incarceration.

18 (i) A person may not waive the right to sentence modification under
19 this section as part of a plea agreement. Any purported waiver of the
20 right to sentence modification under this section in a plea agreement is
21 invalid and unenforceable as against public policy. This subsection
22 does not prohibit the finding of a waiver of the right to sentence
23 modification for any other reason, including failure to comply with the
24 provisions of this section.

25 SECTION 5. IC 35-38-1-17.1 IS ADDED TO THE INDIANA
26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2015]: **Sec. 17.1. (a) This section applies only**
28 **to an offense committed before July 1, 2014.**

29 **(b) Within three hundred sixty-five (365) days after:**

30 **(1) a convicted person begins serving the convicted person's**
31 **sentence;**

32 **(2) a hearing is held:**

33 **(A) at which the convicted person is present; and**

34 **(B) of which the prosecuting attorney has been notified;**
35 **and**

36 **(3) the court obtains a report from the department of**
37 **correction concerning the convicted person's conduct while**
38 **imprisoned;**

39 **the court may reduce or suspend the sentence. The court must**
40 **incorporate its reasons in the record.**

41 **(c) If more than three hundred sixty-five (365) days have**
42 **elapsed since the convicted person began serving the sentence and**



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

11 (d) The court must give notice of the order to reduce or suspend
12 the sentence under this section to the victim (as defined in
13 IC 35-31.5-2-348) of the crime for which the convicted person is
14 serving the sentence.

15 (e) The court may suspend a sentence for a felony under this
16 section only if suspension is permitted under IC 35-50-2-2.2.

17 (f) The court may deny a request to suspend or reduce a
18 sentence under this section without making written findings and
19 conclusions.

20 (g) Notwithstanding subsections (b) and (c), the court is not
21 required to conduct a hearing before reducing or suspending a
22 sentence if:

- 23 (1) the prosecuting attorney has filed with the court an
24 agreement of the reduction or suspension of the sentence; and
25 (2) the convicted person has filed with the court a waiver of
26 the right to be present when the order to reduce or suspend
27 the sentence is considered.

