



Reprinted
February 4, 2015

SENATE BILL No. 174

DIGEST OF SB 174 (Updated February 3, 2015 1:57 pm - DI 106)

Citations Affected: IC 35-38.

Synopsis: Sentence modification. Makes a person sentenced before July 1, 2014, eligible for sentence modification on the same terms as a person sentenced on or after that date. Makes persons convicted of certain offenses ineligible for sentence modification.

Effective: Upon passage.

**Young R Michael, Steele, Randolph,
Merritt**

January 6, 2015, read first time and referred to Committee on Corrections & Criminal Law.
January 14, 2015, amended, reported favorably — Do Pass.
January 20, 2015, read second time, ordered engrossed. Engrossed.
January 29, 2015, returned to second reading.
February 3, 2015, re-read second time, amended, ordered engrossed.

SB 174—LS 6119/DI 106



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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. 174

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.168-2014,
2 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 17. (a) **Notwithstanding IC 1-1-5.5-21, this**
4 **section applies to a person who:**
5 (1) **commits an offense; or**
6 (2) **is sentenced;**
7 **before July 1, 2014. However, subsection (i) applies only to a**
8 **petition for sentence modification filed after June 30, 2014.**
9 (b) This section does not apply to a:
10 (1) credit restricted felon; or
11 (2) **person convicted of one (1) or more of the following**
12 **offenses:**
13 (A) **Murder (IC 35-42-1-1).**
14 (B) **Attempted murder (IC 35-41-5-1).**
15 (C) **Voluntary manslaughter (IC 35-42-1-3).**
16 (D) **Involuntary manslaughter (IC 35-42-1-4).**

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- 1 **(E) Reckless homicide (IC 35-42-1-5).**
 2 **(F) Aggravated battery (IC 35-42-2-1.5).**
 3 **(G) Kidnapping (IC 35-42-3-2).**
 4 **(H) Rape (IC 35-42-4-1).**
 5 **(I) Criminal deviate conduct (IC 35-42-4-2) (before its**
 6 **repeal).**
 7 **(J) Child molesting (IC 35-42-4-3).**
 8 **(K) Sexual misconduct with a minor as a Level 1 felony**
 9 **under IC 35-42-4-9(a)(2) or a Level 2 felony under**
 10 **IC 35-42-4-9(b)(2).**
 11 **(L) Robbery as a Level 2 felony or a Level 3 felony**
 12 **(IC 35-42-5-1).**
 13 **(M) Burglary as a Level 1 felony, Level 2 felony, Level 3**
 14 **felony, or Level 4 felony (IC 35-43-2-1).**
 15 ~~(b)~~ **(c)** Not later than three hundred sixty-five (365) days after:
 16 (1) a convicted person begins serving the person's sentence; and
 17 (2) the court obtains a report from the department of correction
 18 concerning the convicted person's conduct while imprisoned;
 19 the court may reduce or suspend the sentence and impose a sentence
 20 that the court was authorized to impose at the time of sentencing. The
 21 court must incorporate its reasons in the record.
 22 ~~(c)~~ **(d)** If more than three hundred sixty-five (365) days have elapsed
 23 since the convicted person began serving the sentence, the court may
 24 reduce or suspend the sentence and impose a sentence that the court
 25 was authorized to impose at the time of sentencing. The court must
 26 incorporate its reasons in the record.
 27 ~~(d)~~ **(e)** If the court sets a hearing on a petition under this section, the
 28 court must give notice to the prosecuting attorney and the prosecuting
 29 attorney must give notice to the victim (as defined in IC 35-31.5-2-348)
 30 of the crime for which the convicted person is serving the sentence.
 31 ~~(e)~~ **(f)** The court may suspend a sentence for a felony under this
 32 section only if suspension is permitted under IC 35-50-2-2.2.
 33 ~~(f)~~ **(g)** The court may deny a request to suspend or reduce a sentence
 34 under this section without making written findings and conclusions.
 35 ~~(g)~~ **(h)** The court is not required to conduct a hearing before
 36 reducing or suspending a sentence under this section if:
 37 (1) the prosecuting attorney has filed with the court an agreement
 38 of the reduction or suspension of the sentence; and
 39 (2) the convicted person has filed with the court a waiver of the
 40 right to be present when the order to reduce or suspend the
 41 sentence is considered.
 42 ~~(h)~~ **(i)** A convicted person may file a petition for sentence



1 modification under this section:
2 (1) not more than one (1) time in any three hundred sixty-five
3 (365) day period; and
4 (2) a maximum of two (2) times during any consecutive period of
5 incarceration.
6 (i) (j) A person may not waive the right to sentence modification
7 under this section as part of a plea agreement. Any purported waiver of
8 the right to sentence modification under this section in a plea
9 agreement is invalid and unenforceable as against public policy. This
10 subsection does not prohibit the finding of a waiver of the right to
11 sentence modification for any other reason, including failure to comply
12 with the provisions of this section.
13 SECTION 2. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 174, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete "JULY 1, 2015]:" and insert "UPON PASSAGE]:".

Page 2, after line 33, begin a new paragraph and insert:
"SECTION 2. **An emergency is declared for this act.**"

and when so amended that said bill do pass.

(Reference is to SB 174 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed SB 174, which is eligible for third reading, be returned to second reading for purposes of amendment.

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Senate Bill 174 be amended to read as follows:

Page 1, line 9, delete "a" and insert "a:
(1)".

Page 1, line 9, delete "felon." and insert "felon; or
(2) person convicted of one (1) or more of the following offenses:

- (A) Murder (IC 35-42-1-1).
- (B) Attempted murder (IC 35-41-5-1).
- (C) Voluntary manslaughter (IC 35-42-1-3).
- (D) Involuntary manslaughter (IC 35-42-1-4).
- (E) Reckless homicide (IC 35-42-1-5).



- (F) Aggravated battery (IC 35-42-2-1.5).**
- (G) Kidnapping (IC 35-42-3-2).**
- (H) Rape (IC 35-42-4-1).**
- (I) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).**
- (J) Child molesting (IC 35-42-4-3).**
- (K) Sexual misconduct with a minor as a Level 1 felony under IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).**
- (L) Robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1).**
- (M) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1)."**

(Reference is to SB 174 as printed January 15, 2015.)

YOUNG R MICHAEL

