

SENATE BILL No. 174

DIGEST OF INTRODUCED BILL

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

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.

Effective: July 1, 2015.

Young R Michael

January 6, 2015, read first time and referred to Committee on Corrections & Criminal Law.



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 JULY 1, 2015]: 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 credit restricted felon.
10 ~~(b)~~ (c) Not later than three hundred sixty-five (365) days after:
11 (1) a convicted person begins serving the person's sentence; and
12 (2) the court obtains a report from the department of correction
13 concerning the convicted person's conduct while imprisoned;
14 the court may reduce or suspend the sentence and impose a sentence
15 that the court was authorized to impose at the time of sentencing. The
16 court must incorporate its reasons in the record.



1 ~~(c)~~ **(d)** If more than three hundred sixty-five (365) days have elapsed
2 since the convicted person began serving the sentence, the court may
3 reduce or suspend the sentence and impose a sentence that the court
4 was authorized to impose at the time of sentencing. The court must
5 incorporate its reasons in the record.

6 ~~(d)~~ **(e)** If the court sets a hearing on a petition under this section, the
7 court must give notice to the prosecuting attorney and the prosecuting
8 attorney must give notice to the victim (as defined in IC 35-31.5-2-348)
9 of the crime for which the convicted person is serving the sentence.

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

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

14 ~~(g)~~ **(h)** The court is not required to conduct a hearing before
15 reducing or suspending a sentence under this section if:

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

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

21 ~~(h)~~ **(i)** A convicted person may file a petition for sentence
22 modification under this section:

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

25 (2) a maximum of two (2) times during any consecutive period of
26 incarceration.

27 ~~(i)~~ **(j)** A person may not waive the right to sentence modification
28 under this section as part of a plea agreement. Any purported waiver of
29 the right to sentence modification under this section in a plea
30 agreement is invalid and unenforceable as against public policy. This
31 subsection does not prohibit the finding of a waiver of the right to
32 sentence modification for any other reason, including failure to comply
33 with the provisions of this section.

