

SENATE BILL No. 319

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-3-3.

Synopsis: Sentencing after probation revocation. Removes the statutory provision requiring the commission of a new criminal offense from the probation revocation statute concerning Level 6 offenses.

Effective: July 1, 2019.

Head

January 7, 2019, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 319

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 35-38-3-3, AS AMENDED BY P.L.184-2018,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 3. (a) Except as provided by subsection (b), a
4 person convicted of a misdemeanor may not be committed to the
5 department of correction.
6 (b) Upon a request from the sheriff, the commissioner may agree to
7 accept custody of a misdemeanor:
8 (1) if placement in the county jail:
9 (A) places the inmate in danger of serious bodily injury or
10 death; or
11 (B) represents a substantial threat to the safety of others;
12 (2) for other good cause shown; or
13 (3) if a person has more than five hundred forty-seven (547) days
14 remaining before the person's earliest release date as a result of:
15 (A) consecutive misdemeanor sentences; or
16 (B) a sentencing enhancement applied to a misdemeanor
17 sentence.



1 (c) After June 30, 2014, and before January 1, 2016, a court may not
 2 commit a person convicted of a Level 6 felony to the department of
 3 correction if the person's earliest possible release date is less than
 4 ninety-one (91) days from the date of sentencing, unless the
 5 commitment is due to the person violating a condition of probation,
 6 parole, or community corrections by committing a new criminal
 7 offense.

8 (d) After December 31, 2015, a court may not commit a person
 9 convicted of a Level 6 felony to the department of correction unless:

10 (1) the commitment is due to the revocation of the person's
 11 sentence for violating probation, parole, or community
 12 corrections; ~~and the revocation of the person's sentence is due to~~
 13 ~~a new criminal offense;~~ or

14 (2) the person:

15 (A) is convicted of a Level 6 felony and the sentence for that
 16 felony is ordered to be served consecutively to the sentence for
 17 another felony;

18 (B) is convicted of a Level 6 felony that is enhanced by an
 19 additional fixed term under IC 35-50-2-8 through
 20 IC 35-50-2-16; or

21 (C) has received an enhanced sentence under IC 9-30-15.5-2;
 22 and the person's earliest possible release date is more than three
 23 hundred sixty-five (365) days after the date of sentencing.

24 A person who may not be committed to the department of correction
 25 may be placed on probation, committed to the county jail, or placed in
 26 community corrections for assignment to an appropriate community
 27 corrections program.

28 (e) Subject to appropriation from the general assembly, a sheriff is
 29 entitled to a per diem and medical expense reimbursement from the
 30 department of correction for the cost of incarcerating a person
 31 described in subsections (c) and (d) in a county jail. The sheriff is
 32 entitled to a per diem and medical expense reimbursement only for the
 33 time that the person described in subsections (c) and (d) is incarcerated
 34 in the county jail.

35 (f) Per diem and medical expense reimbursements received by a
 36 county under this section or received by a county from the state under
 37 any other law for the purpose of reimbursing sheriffs for the cost of
 38 incarcerating in county jails persons convicted of felonies:

39 (1) shall be deposited in the county general fund; and

40 (2) upon appropriation by the county fiscal body, shall be used by
 41 the county sheriff only for the purposes of paying the costs of
 42 incarcerating in the county jail persons described in subsections



1 (c) and (d) or other persons convicted of felonies.
2 (g) The county auditor shall semiannually provide to the county
3 fiscal body and the county sheriff an itemized record of the per diem
4 and medical expense reimbursements received by the county under this
5 section or under any other law for the purpose of reimbursing sheriffs
6 for the cost of incarcerating persons convicted of felonies.

