

HOUSE BILL No. 1301

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2-35.4; IC 35-38-1.

Synopsis: Sentence modification. Requires the department of correction to issue a certificate of eligibility for rehabilitative release (certificate) to certain convicted persons. Provides that a certificate must be issued to the following: (1) A person sentenced for a crime other than murder who is at least 60 years of age, and has served at least 20 years in the department of correction. (2) A person serving a sentence for murder who is at least 62 years of age, and has served at least 30 years in the department of correction. Allows a convicted person who has received a certificate to file a petition for sentence modification without the consent of the prosecuting attorney. Provides certain criteria that the court must consider when ruling on a petition for sentence modification. Allows a court to grant a petition for sentence modification if the court finds, by clear and convincing evidence, that: (1) the convicted person is no longer a danger to public safety; (2) the convicted person has demonstrated significant rehabilitative efforts, including participation in educational, vocational, and therapeutic programs; and (3) the interest of justice supports sentence modification. Allows the state public defender to represent a convicted person on a petition for sentence modification that is based upon a certificate. Allows certain convicted persons to file a petition for sentence reduction. Requires a petition for sentence reduction to identify information related the convicted person, sentence sought to be reduced, and evidence in support of the request. Allows a court to dismiss an incomplete petition or set a hearing on a properly filed petition. Requires that notice of a hearing be served on the petitioner, convicted person, counsel, department of correction, prosecuting

(Continued next page)

Effective: July 1, 2026.

Smith V

January 6, 2026, read first time and referred to Committee on Courts and Criminal Code.



Digest Continued

attorney, and the victim or witness. Requires a court to appoint a public defender to represent the convicted person. Provides that the court is to take certain factors into consideration when deciding a petition for sentence reduction. Specifies that if the evidence supports that the convicted person does not present a significant safety risk to the community, there is a rebuttable presumption that the convicted person's sentence should be reduced by at least 20%. Requires the court to issue a final appealable order with findings of fact.



Introduced

Second Regular Session of the 124th General Assembly (2026)

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 2025 Regular Session of the General Assembly.

HOUSE BILL No. 1301

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 35-31.5-2-35.4 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2026]: **Sec. 35.4. "Certificate", for purposes**
4 **of IC 35-38-1-17.5, has the meaning set forth in IC 35-38-1-17.5(a).**
5 SECTION 2. IC 35-38-1-17, AS AMENDED BY P.L.148-2024,
6 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2026]: Sec. 17. (a) Notwithstanding IC 1-1-5.5-21, this section
8 applies to a person who:
9 (1) commits an offense; or
10 (2) is sentenced;
11 before July 1, 2014.
12 (b) This section does not apply to a credit restricted felon.
13 (c) Except as provided in subsections (k) and (m), this section does
14 not apply to a violent criminal.
15 (d) As used in this section, "violent criminal" means a person



1 convicted of any of the following offenses:

2 (1) Murder (IC 35-42-1-1).

3 (2) Attempted murder (IC 35-41-5-1).

4 (3) Voluntary manslaughter (IC 35-42-1-3).

5 (4) Involuntary manslaughter (IC 35-42-1-4).

6 (5) Reckless homicide (IC 35-42-1-5).

7 (6) Aggravated battery (IC 35-42-2-1.5).

8 (7) Kidnapping (IC 35-42-3-2).

9 (8) Rape (IC 35-42-4-1).

10 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

11 (10) Child molesting (IC 35-42-4-3).

12 (11) Sexual misconduct with a minor as a Class A felony under
13 IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2)
14 (for a crime committed before July 1, 2014) or sexual misconduct
15 with a minor as a Level 1 felony under IC 35-42-4-9(a)(2) or a
16 Level 2 felony under IC 35-42-4-9(b)(2) (for a crime committed
17 after June 30, 2014).

18 (12) Robbery as a Class A felony or a Class B felony (IC
19 35-42-5-1) (for a crime committed before July 1, 2014) or robbery
20 as a Level 2 felony or a Level 3 felony (IC 35-42-5-1) (for a crime
21 committed after June 30, 2014).

22 (13) Burglary as Class A felony or a Class B felony (IC
23 35-43-2-1) (for a crime committed before July 1, 2014) or
24 burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or
25 Level 4 felony (IC 35-43-2-1) (for a crime committed after June
26 30, 2014).

27 (14) Unlawful possession of a firearm by a serious violent felon
28 (IC 35-47-4-5).

29 (e) **Notwithstanding section 17.5 of this chapter**, at any time after:
30 (1) a convicted person begins serving the person's sentence; and
31 (2) the court obtains a report from the department of correction
32 concerning the convicted person's conduct while imprisoned;
33 the court may reduce or suspend the sentence and impose a sentence
34 that the court was authorized to impose at the time of sentencing.
35 However, if the convicted person was sentenced under the terms of a
36 plea agreement, the court may not, without the consent of the
37 prosecuting attorney, reduce or suspend the sentence and impose a
38 sentence not authorized by the plea agreement. The court must
39 incorporate its reasons in the record.

40 (f) If the court sets a hearing on a petition under this section, the
41 court must give notice to the prosecuting attorney and the prosecuting
42 attorney must give notice to the victim (as defined in IC 35-31.5-2-348)



1 of the crime for which the convicted person is serving the sentence.
2 (g) The court may suspend a sentence for a felony under this section
3 only if suspension is permitted under IC 35-50-2-2.2, or, if applicable,
4 IC 35-50-2-2 (repealed).
5 (h) The court may deny a request to suspend or reduce a sentence
6 under this section without making written findings and conclusions.
7 (i) The court is not required to conduct a hearing before reducing or
8 suspending a sentence under this section if:
9 (1) the prosecuting attorney has filed with the court an agreement
10 of the reduction or suspension of the sentence; and
11 (2) the convicted person has filed with the court a waiver of the
12 right to be present when the order to reduce or suspend the
13 sentence is considered.
14 (j) This subsection applies only to a convicted person who is not a violent
15 criminal. A convicted person who is not a violent criminal may file a petition for sentence modification under this section:
16 (1) not more than one (1) time in any three hundred sixty-five (365) day period; and
17 (2) a maximum of two (2) times during any consecutive period of
18 incarceration;
19 without the consent of the prosecuting attorney.
20 (k) This subsection applies to a convicted person who is a violent
21 criminal. Except as provided in subsection (n), a convicted person who
22 is a violent criminal may, not later than three hundred sixty-five (365)
23 days from the date of sentencing, file one (1) petition for sentence
24 modification under this section without the consent of the prosecuting
25 attorney. After the elapse of the three hundred sixty-five (365) day
26 period, a violent criminal may not file a petition for sentence
27 modification without the consent of the prosecuting attorney.
28 (l) A person may not waive the right to sentence modification under
29 this section as part of a plea agreement. Any purported waiver of the
30 right to sentence modification under this section in a plea agreement is
31 invalid and unenforceable as against public policy. This subsection
32 does not prohibit the finding of a waiver of the right to:
33 (1) have a court modify a sentence and impose a sentence not
34 authorized by the plea agreement, as described under subsection
35 (e); or
36 (2) sentence modification for any other reason, including failure
37 to comply with the provisions of this section.
38 (m) Notwithstanding subsection (k), a person who commits an
39 offense after June 30, 2014, and before May 15, 2015, may file one (1)
40 petition for sentence modification without the consent of the
41
42



1 prosecuting attorney, even if the person has previously filed a petition
 2 for sentence modification.

3 (n) A person sentenced in a criminal court having jurisdiction over
 4 an offense committed when the person was less than eighteen (18)
 5 years of age may file an additional petition for sentence modification
 6 under this section without the consent of the prosecuting attorney if the
 7 person has served at least:

8 (1) fifteen (15) years of the person's sentence, if the person is not
 9 serving a sentence for murder; or

10 (2) twenty (20) years of the person's sentence, if the person is
 11 serving a sentence for murder.

12 The time periods described in this subsection are computed on the
 13 basis of time actually served and do not include any reduction applied
 14 for good time credit or educational credit time.

15 SECTION 3. IC 35-38-1-17.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2026]: Sec. 17.5. (a) As used in this section,
 18 "certificate" means a certificate of eligibility for rehabilitative
 19 release issued under subsection (b).

20 (b) The department of correction shall issue a certificate of
 21 eligibility for rehabilitative release to a convicted person if one of
 22 the following applies:

23 (1) The person is serving a sentence that does not include a
 24 conviction under IC 35-42-1-1 (murder) and the person:

25 (A) is at least sixty (60) years of age; and

26 (B) has served at least twenty (20) years in the custody of
 27 the department of correction for the current sentence.

28 (2) The person is serving a sentence for a conviction under
 29 IC 35-42-1-1 (murder) and the person:

30 (A) is at least sixty-two (62) years of age; and

31 (B) has served at least thirty (30) years in the custody of
 32 the department of correction for the current sentence.

33 The time periods described in this subsection are computed on the
 34 basis of time actually served and do not include a reduction for
 35 good time credit or educational credit time. This section does not
 36 apply to a convicted person sentenced to death or life
 37 imprisonment without parole.

38 (c) Not less than sixty (60) days before issuing a certificate under
 39 subsection (b), the department of correction shall send a written
 40 notice to the parole board of the department of correction's intent
 41 to issue a certificate to the convicted person.

42 (d) Notwithstanding section 17 of this chapter, a convicted



1 **person who has received a certificate under this section may file a**
2 **petition for sentence modification without the consent of the**
3 **prosecuting attorney. A convicted person may petition for**
4 **modification only one (1) time under this section and must include**
5 **a copy of the certificate with the petition.**

6 (e) Upon receipt of a petition filed properly under this section,
7 the court shall set the matter for a hearing and provide notice of
8 the hearing to the convicted person and the department of
9 correction. A court may not set a hearing under this subsection less
10 than ninety (90) days from receipt of the petition.

11 (f) Unless the victim or a witness has requested in writing not to
12 be notified, the department of correction shall send a notice of the
13 hearing to:

14 (1) the victim of the convicted person (or the next of kin of the
15 victim if the conviction resulted from the death of the victim);
16 and
17 (2) any witness involved in the prosecution of the convicted
18 person;

19 and notify the individual described in subdivision (1) or (2) that the
20 individual may appear in person to testify at the hearing or may
21 submit written testimony to the court.

22 (g) The court shall consider the following factors when ruling on
23 a petition filed under this section:

24 (1) The age of the convicted person at the time the offense was
25 committed and at the time of the hearing.
26 (2) The convicted person's criminal history and conduct
27 during incarceration.
28 (3) Testimony or statements from the victim, the victim's
29 family, or any witnesses.
30 (4) Any medical or psychological reports concerning the
31 convicted person.
32 (5) The seriousness of the underlying offense and the role of
33 the convicted person in that offense.
34 (6) The benefits of potential reunification of the convicted
35 person with the convicted person's family.
36 (7) The fiscal impact of the convicted person being
37 incarcerated versus being released.
38 (8) The feasibility of the convicted person's reentry plan,
39 including housing, employment, and community support.

40 (h) Notwithstanding any statutory imposed minimum sentences,
41 if the court finds by clear and convincing evidence that:

42 (1) the convicted person is no longer a danger to public safety;



- (2) the convicted person has demonstrated significant rehabilitative efforts, including participation in educational, vocational, and therapeutic programs; and
- (3) the interest of justice supports sentence modification; the court may modify or suspend the convicted person's sentence.

(i) An order issued under subsection (h) is a final appealable order and must:

(1) include findings on each factor described in subsection (h)(1) through (h)(3);

(2) require the convicted person to remain on parole supervision for at least five (5) years from the date the convicted person is released from the custody of the department of correction; and

(3) require the convicted person to remain in the custody of the department of correction until all appeals are exhausted and completed.

(j) A convicted person is entitled to representation by the state public defender on a petition filed under this section.

SECTION 4. IC 35-38-1-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 34. (a) The following may file a petition for sentence reduction under this section:

(1) A convicted person who:

(A) is serving a sentence within the department of correction for an offense that was committed when the convicted person was less than twenty-six (26) years of age; and

(B) has served not less than ten (10) years of the convicted person's sentence.

(2) A convicted person who:

(A) is serving a sentence within the department of correction for an offense that was committed when the convicted person was at least twenty-six (26) years of age; and

and
(B) has served not less than fifteen (15) years of the convicted person's sentence.

(3) Any convicted person with the consent of the prosecuting attorney.

The time periods described in this subsection are computed on the basis of time actually served and do not include a reduction for good time credit or educational credit time. This section does not apply to a convicted person sentenced to death or life



imprisonment without parole.

(b) The department of correction shall provide notice describing the relief available under this section to the following:

(1) A convicted person described in subsection (a)(1) when the convicted person has served at least nine (9) years in the department of correction.

(2) A convicted person described in subsection (a)(2) when the convicted person has served at least fourteen (14) years in the department of correction.

(c) Notwithstanding sections 17 and 17.5 of this chapter, the following may file a petition for sentence reduction under this section:

(1) A convicted person described in subsection (a).

(2) A next friend or guardian of the convicted person.

(3) A treating healthcare provider of the convicted person.

(4) Counsel for the convicted person.

(d) A petition for sentence reduction must be filed with the sentencing court and must contain:

(1) the name of the convicted person;

(2) the name of the petitioner and relationship of the petitioner to the convicted person, if different from the convicted person;

(3) the underlying criminal cause number and all offenses for which the convicted person is serving a sentence;

(4) the date the conv

- o a description of:
 - (A) which sentence the convicted person seeks to be reduced; and
 - (B) evidence that supports the request for sentence reduction.

The petitioner shall serve the petition upon the department of correction and the prosecuting attorney.

(e) A court may dismiss, without prejudice, a petition filed under this section that does not comply with the requirements of subsection (d). Upon receipt of a petition filed in compliance with subsection (d), the court shall:

(1) unless impracticable, set a hearing not later than forty-five (45) days after the petition is filed;

(2) serve notice of the hearing on:

(A) the petitioner;

(B) the convicted person, if different from the petitioner;

(C) counsel for the convicted person;



(D) the department of correction;

(E) the prosecuting attorney; and

(F) the victim of the convicted person (or the next of kin of the victim if the conviction resulted from the death of the victim), and any witness involved in the prosecution of the convicted person, unless the victim or a witness has requested in writing not to be notified; and

(3) appoint a public defender to represent the convicted person if the convicted person is not represented by counsel.

A request for a continuance of a hearing scheduled under subdivision (1) may be granted for good cause shown. An individual described in subdivision (2)(F) must be notified that the individual may appear in person to testify at the hearing or may submit written testimony to the court.

(f) At a hearing on a petition for sentence reduction filed under this section, the court shall consider the following:

(1) Rehabilitative efforts taken by the convicted person, including the convicted person's participation in educational, therapeutic, and vocational opportunities within the department of correction.

(2) The length of the convicted person's sentence in proportion to the risk the convicted person is to the community.

(3) All other evidence and testimony presented in support or opposition of the petition.

(g) If the evidence supports that the convicted person does not present a significant safety risk to the community, there is a rebuttable presumption that the convicted person's remaining sentence should be reduced by not less than twenty percent (20%). The court shall issue a final appealable order with findings of fact to support the sentence reduction or the denial of the petition. If a petition is granted, the court shall include:

(1) all time served;

(2) good time credit; and

(3) educational credit;

when calculating the sentence reduction.

