

## SENATE BILL No. 2

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-33-8.

**Synopsis:** Bail procedures. Provides that offenses other than murder are not bailable if the state proves: (1) by a preponderance of the evidence that the proof is evident or the presumption strong; and (2) by clear and convincing evidence that the arrestee is dangerous and that no conditions of release will reasonably protect the safety of other persons or the community. Establishes procedures for a bail hearing. Removes duplicative provisions concerning repeat violent arrestees.

**Effective:** July 1, 2026; January 1, 2027.

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## Freeman

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January 8, 2026, read first time and referred to Committee on Corrections and Criminal Law.

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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.

## SENATE BILL No. 2

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 35-33-8-2, AS AMENDED BY P.L.41-2018,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JANUARY 1, 2027]: Sec. 2. **(a)** Murder is not bailable if the state  
4       proves by a preponderance of the evidence that the proof is evident or  
5       the presumption strong.

6       **(b) Offenses other than murder are not bailable if the state**  
7       **proves at a hearing under section 3.7 of this chapter:**

8               **(1) by a preponderance of the evidence that the proof is**  
9               **evident or the presumption strong for the charged offense;**  
10              **and**

11              **(2) by clear and convincing evidence that:**

12                      **(A) the arrestee poses a substantial risk to the safety of any**  
13                      **other person or the community; and**

14                      **(B) no conditions of release will reasonably protect the**  
15                      **safety of any other person or the community.**

16       **(c) In all other cases, offenses are bailable as provided in this**  
17       **chapter.**



SECTION 2. IC 35-33-8-3.4, AS ADDED BY P.L.197-2025, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 3.4. (a) This section applies only to a violent arrestee. ~~or a repeat violent arrestee.~~

(b) The following definitions apply throughout this section:

(1) "Crime of violence" means an offense:

(A) described in IC 35-50-1-2(a); and

(B) that is a Level 1, Level 2, Level 3, Level 4, or Level 5 felony.

(2) ~~"Repeat violent arrestee" means a person arrested for or charged with a crime of violence who has a prior conviction for a crime of violence.~~

~~(3)~~ (2) "Violent arrestee" means a person arrested for or charged with a crime of violence.

(c) A violent arrestee ~~or a repeat violent arrestee~~ may only be released on bail set individually by the court following a hearing held in open court. Before releasing a violent arrestee ~~or a repeat violent arrestee~~ on bail, the court must:

(1) review the probable cause affidavit or arrest warrant; and

(2) impose money bail payable by surety bond or cash deposit.

(d) In accordance with IC 27-10-2-4.5(g)(2), a charitable bail organization may not pay money bail imposed under this section on behalf of a violent arrestee. ~~or a repeat violent arrestee.~~

SECTION 3. IC 35-33-8-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2027]: Sec. 3.7. (a) **This section does not apply to a charge of murder. A person charged with murder shall be detained as provided in section 2 of this chapter.**

(b) **For a charge other than murder, on motion of the state at or before an initial hearing, the court shall hold a hearing to determine whether an arrestee shall be denied bail. The state may request detention of the arrestee at a later date if it files a verified petition alleging the existence of new information that was unknown or unavailable at the time of the initial hearing.**

(c) **The court shall hold the bail hearing described in subsection (b) not later than forty-eight (48) hours from the time of filing, unless doing so is impracticable. However, the court may grant a continuance of:**

(1) not more than five (5) days, if requested by the arrestee; and

(2) not more than three (3) days, if requested by the state.

(d) **At the bail hearing, the arrestee has the right to be**



1 represented by counsel and, if the arrestee is indigent, to have  
 2 counsel appointed. Except as provided in subsection (e), the  
 3 arrestee also has the right to testify, to present evidence, and to  
 4 cross-examine witnesses.

5 (e) An arrestee may compel the victim to testify at a hearing  
 6 under this section only if the arrestee files a verified petition  
 7 requesting the victim's presence and the court grants the petition.  
 8 The court may grant the petition if the ends of justice so require  
 9 and if the court finds the arrestee will be materially prejudiced if  
 10 the victim does not appear. Cross-examination of the victim for the  
 11 purpose of impeachment is insufficient to compel the presence of  
 12 the victim. In deciding whether to compel the appearance of the  
 13 victim, the court shall consider the emotional and physical well  
 14 being of the victim.

15 (f) In making a determination of whether to deny bail, a court  
 16 shall consider the following factors, in addition to any other fact or  
 17 circumstance relevant to reasonably assuring appearance and the  
 18 safety of any other person or the community:

19 (1) The nature and circumstances of the offense charged,  
 20 including whether the offense is an offense of violence or  
 21 involves alcohol or drug abuse.

22 (2) The weight of the evidence against the arrestee.

23 (3) The history and characteristics of the arrestee, including:

24 (A) the character, physical and mental condition, family  
 25 ties, employment, financial resources, length of residence  
 26 in the community, community ties, past conduct, history  
 27 relating to drug or alcohol abuse, and criminal history of  
 28 the arrestee; and

29 (B) whether, at the time of the current alleged offense or at  
 30 the time of the arrest of the arrestee, the arrestee was on  
 31 probation, parole, community corrections, or release  
 32 pending trial, sentencing, appeal, or completion of sentence  
 33 for the commission of an offense under the laws of this  
 34 state, another state, or the United States.

35 (4) The nature and seriousness of the danger to any person or  
 36 the community that would be posed by the arrestee's release.

37 (5) The availability, suitability, and effectiveness of less  
 38 restrictive alternatives to detention and specific conditions of  
 39 release that could reasonably mitigate the identified risk.

40 (6) Any other fact or circumstance that is relevant to  
 41 reasonably assuring the appearance of the arrestee and the  
 42 safety of any other person or the community.



1 (g) If the court denies bail under this section, the court shall  
 2 issue brief written findings and conclusions setting forth reasons  
 3 for the denial.

4 (h) No evidence or finding from a hearing under this section is  
 5 admissible as substantive evidence at a trial concerning the offense  
 6 for which the hearing was conducted. The evidence or findings may  
 7 be admissible as impeachment or in a prosecution for perjury.

8 (i) If the court determines that an arrestee should not be denied  
 9 bail, the court shall set terms of pretrial release for the arrestee in  
 10 accordance with this chapter.

11 (j) An order granting or denying bail is a final appealable order.

12 (k) A court may reconsider an order granting or denying bail  
 13 under this section if, at any time before trial, the court is made  
 14 aware of information that was unknown or unobtainable at the  
 15 time of a previous hearing and that has a material bearing on the  
 16 issue of whether there are conditions of release that will reasonably  
 17 assure the safety of any other person or the community. The court  
 18 may order a new hearing under this section upon motion of the  
 19 state, the arrestee, or on its own motion.

20 SECTION 4. IC 35-33-8-3.8, AS ADDED BY P.L.187-2017,  
 21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JANUARY 1, 2027]: Sec. 3.8. (a) A court shall consider the results of  
 23 the Indiana pretrial risk assessment system (if available) before setting  
 24 or modifying bail for an arrestee.

25 (b) If the court finds, based on the results of the Indiana pretrial risk  
 26 assessment system (if available) and other relevant factors, that an  
 27 arrestee does not present a substantial risk of flight or danger to the  
 28 arrestee or others, the court shall consider releasing the arrestee  
 29 without money bail or surety, subject to restrictions and conditions as  
 30 determined by the court, unless one (1) or more of the following apply:

31 (1) The arrestee is charged with murder or treason.

32 (2) The arrestee is on pretrial release not related to the incident  
 33 that is the basis for the present arrest.

34 (3) The arrestee is on probation, parole, or other community  
 35 supervision.

36 (4) The arrestee is a violent arrestee as defined in section 3.4  
 37 of this chapter.

38 (5) The arrestee is a sexually violent predator defendant as  
 39 defined in section 3.5 of this chapter.

40 (6) The arrestee has been denied bail pursuant to section 3.7  
 41 of this chapter.

42 (7) The arrestee is a foreign national who is unlawfully



1           **present in the United States as described in section 4.5 of this**  
2           **chapter.**

3           The court is not required to administer an assessment before releasing  
4           an arrestee if administering the assessment will delay the arrestee's  
5           release.

