

SENATE BILL No. 2

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.

Freeman

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



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.

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.**



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

5 (b) The following definitions apply throughout this section:

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

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

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

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

13 (3) (2) "Violent arrestee" means a person arrested for or charged
 14 with a crime of violence.

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

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

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

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

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

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

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

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

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

42 (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.

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

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

(A) the character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, and criminal history of 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.

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

36 the community that would be posed by the arrested'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.

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.



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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

