

SENATE BILL No. 2

AM000201 has been incorporated into introduced printing.

Synopsis: Bail procedures.

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2026

IN 2—LS 7109/DI 106



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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 35-33-7-6, AS AMENDED BY P.L.111-2024,
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2026]: Sec. 6. (a) Prior to the completion of the initial hearing,
4 the judicial officer shall determine whether a person who requests
5 assigned counsel is indigent under section 6.5 of this chapter. If the
6 person is found to be indigent, the judicial officer shall assign counsel
7 to the person.

8 (b) If jurisdiction over an indigent defendant is transferred to
9 another court, the receiving court shall assign counsel immediately
10 upon acquiring jurisdiction over the defendant.

11 (c) If the court finds that the person is able to pay part of the cost
12 of representation by the assigned counsel, the court shall order the
13 person to pay the following:

14 (1) For a felony action, a fee of two hundred dollars (\$200).
15 (2) For a misdemeanor action, a fee of one hundred dollars

2026

IN 2—LS 7109/DI 106



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1 (\$100).

2 However, a court may order a person to pay the fees described in
3 this subsection without an indigency hearing if the person has paid
4 a cash bond and executed an agreement under IC 35-33-8-3.2
5 allowing the court to retain all or a part of the cash to pay publicly
6 paid costs of representation and fines, costs, fees, and restitution.

15 (f) The clerk of the court shall transfer the remaining one hundred
16 dollars (\$100) in a felony case and the remaining fifty dollars (\$50) in
17 a misdemeanor case of the fees described in subsection (c) to the state
18 comptroller for deposit in the public defense fund established by
19 IC 33-40-6-1.

20 (g) The court may review the finding of indigency at any time
21 during the proceedings if:

22 (1) the court receives evidence of a material change in the
23 person's income or assets; or

(2) the person has failed to provide the court with sufficient evidence, including documentary evidence, to sustain the court's initial indigency determination.

27 SECTION 2. IC 35-33-7-6.5, AS AMENDED BY P.L.111-2024,
28 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2026]: Sec. 6.5. (a) In determining whether a person is
30 indigent, the court shall consider the following:

31 (1) The person's assets.

32 (2) The person's income.

33 (3) The person's necessary expenses.

34 (b) The court may consider that a person's eligibility for:

35 (1) the federal Supplemental Nutrition Assistance Program
36 (SNAP) (except for 21 U.S.C. 862a(a));

37 (2) the federal and Indiana TANF (Temporary Assistance to
38 Needy Families) program (except for 21 U.S.C. 862a(a)); or

39 (3) another need based public assistance program;
40 constitutes sufficient evidence to establish that a person is indigent

(c) The court may issue an initial indigency determination pending receipt of documentary or other evidence from the person concerning

2026

JN 2—LS 7109/DI 106



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1 the person's income, assets, expenses, or welfare eligibility.

2 (d) Each court in a county receiving reimbursement under
 3 IC 33-40-6-5(c) shall require a person claiming indigency to submit a
 4 uniform form, prescribed by the office of judicial administration, to
 5 assist the court in determining whether the person is indigent. The
 6 court shall review or designate a staff member to review the form
 7 submitted to ensure the accuracy of the information contained in the
 8 form before issuing an indigency determination under this section. The
 9 court may request any additional information needed from the person
 10 to verify the accuracy of the information submitted in the form.

11 (e) If the court finds that the person is able to pay some of the
 12 fines, fees, and court costs, the court may prorate the person's fine, fee,
 13 and court costs, and require the person to pay an amount that the person
 14 can reasonably afford.

15 (f) **If a person has paid a cash bond and executed an agreement
 16 under IC 35-33-8-3.2 allowing the court to retain all or a part of
 17 the cash to pay publicly paid costs of representation and fines,
 18 costs, fees, and restitution, the court may retain these funds
 19 pursuant to the agreement without holding an indigency hearing.**

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

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

27 (1) **by a preponderance of the evidence that the proof is
 28 evident or the presumption strong for the charged offense;
 29 and**

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

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

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

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

37 SECTION 4. IC 35-33-8-3.2, AS AMENDED BY P.L.205-2023,
 38 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2026]: Sec. 3.2. (a) After considering the results of the Indiana
 40 pretrial risk assessment system (if available), other relevant factors, and
 41 bail guidelines described in section 3.8 of this chapter, a court may
 42 admit a defendant to bail and impose any of the following conditions



1 to assure the defendant's appearance at any stage of the legal
2 proceedings, or, upon a showing of clear and convincing evidence that
3 the defendant poses a risk of physical danger to another person or the
4 community, to assure the public's physical safety:

5 (1) Require the defendant to:

6 (A) execute a bail bond with sufficient solvent sureties;
7 (B) deposit cash or securities in an amount equal to the bail;
8 (C) execute a bond secured by real estate in the county,
9 where thirty-three hundredths (0.33) of the true tax value
10 less encumbrances is at least equal to the amount of the
11 bail;
12 (D) post a real estate bond; or
13 (E) perform any combination of the requirements described
14 in clauses (A) through (D).

15 If the court requires the defendant to deposit cash or cash and
16 another form of security as bail, the court may, **subject to**
17 **subsection (h)**, require the defendant and each person who
18 makes the deposit on behalf of the defendant to execute an
19 agreement that allows the court, **without holding an indigency**
20 **hearing**, to retain all or a part of the cash to pay publicly paid
21 costs of representation and fines, costs, fees, and restitution that
22 the court may order the defendant to pay if the defendant is
23 convicted. Before execution of the agreement, the defendant or
24 person who makes the deposit on behalf of the defendant shall
25 be advised that, upon conviction of the defendant, the court may
26 retain from the cash deposited as bail all or a part of the cash to
27 pay publicly paid costs of representation and fines, costs, fees,
28 and restitution that the court may order the defendant to pay if
29 the defendant is convicted. The defendant must also pay the fee
30 required by subsection (d).

31 (2) Require the defendant to execute:

32 (A) a bail bond by depositing cash or securities with the
33 clerk of the court in an amount not less than ten percent
34 (10%) of the bail; and
35 (B) an agreement that allows the court to retain all or a part
36 of the cash or securities to pay fines, costs, fees, and
37 restitution that the court may order the defendant to pay if
38 the defendant is convicted.

39 A portion of the deposit, not to exceed ten percent (10%) of the
40 monetary value of the deposit or fifty dollars (\$50), whichever is
41 the lesser amount, may be retained as an administrative fee. The



1 clerk shall also retain from the deposit under this subdivision
2 fines, costs, fees, and restitution as ordered by the court, publicly
3 paid costs of representation that shall be disposed of in
4 accordance with subsection (b), and the fee required by
5 subsection (d). In the event of the posting of a real estate bond,
6 the bond shall be used only to insure the presence of the
7 defendant at any stage of the legal proceedings, but shall not be
8 foreclosed for the payment of fines, costs, fees, or restitution.
9 The individual posting bail for the defendant or the defendant
10 admitted to bail under this subdivision must be notified by the
11 sheriff, court, or clerk that the defendant's deposit may be
12 forfeited under section 7 of this chapter or retained under
13 subsection (b).

14 (3) Impose reasonable restrictions on the activities, movements,
15 associations, and residence of the defendant during the period of
16 release.

17 (4) Except as provided in section 3.6 of this chapter, require the
18 defendant to refrain from any direct or indirect contact with an
19 individual and, if the defendant has been charged with an offense
20 under IC 35-46-3, any animal belonging to the individual,
21 including if the defendant has not been released from lawful
22 detention.

23 (5) Place the defendant under the reasonable supervision of a
24 probation officer, pretrial services agency, or other appropriate
25 public official. If the court places the defendant under the
26 supervision of a probation officer or pretrial services agency, the
27 court shall determine whether the defendant must pay the pretrial
28 services fee under section 3.3 of this chapter.

29 (6) Release the defendant into the care of a qualified person or
30 organization responsible for supervising the defendant and
31 assisting the defendant in appearing in court. The supervisor
32 shall maintain reasonable contact with the defendant in order to
33 assist the defendant in making arrangements to appear in court
34 and, where appropriate, shall accompany the defendant to court.
35 The supervisor need not be financially responsible for the
36 defendant.

37 (7) Release the defendant on personal recognizance unless:
38 (A) the state presents evidence relevant to a risk by the
39 defendant:
40 (i) of nonappearance; or
41 (ii) to the physical safety of the public; and

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1 (B) the court finds by a preponderance of the evidence that
2 the risk exists.

6 (9) Require a defendant to participate in a mental health referral
7 program under IC 33-23-18.

8 (10) Impose any other reasonable restrictions designed to assure
9 the defendant's presence in court or the physical safety of
10 another person or the community.

21 (d) Except as provided in subsection (e), the clerk of the court
22 shall:

23 (1) collect a fee of five dollars (\$5) from each bond or deposit
24 required under subsection (a)(1); and

25 (2) retain a fee of five dollars (\$5) from each deposit under
26 subsection (a)(2).

27 The clerk of the court shall semiannually remit the fees collected under
28 this subsection to the board of trustees of the Indiana public retirement
29 system for deposit in the special death benefit fund. The fee required
30 by subdivision (2) is in addition to the administrative fee retained under
31 subsection (a)(2).

37 (f) When a court imposes a condition of bail described in
38 subsection (a)(4):

39 (1) the clerk of the court shall comply with IC 5-2-9; and
40 (2) the prosecuting attorney shall file a confidential form
41 prescribed or approved by the office of judicial administration



1 with the clerk.

(g) The clerk of the court shall record the name, address, and bail agent license number, if applicable, of the bail agent or a person authorized by the surety posting bail for the defendant in the county court electronic case management system.

10 (1) understands the nature and consequences of the
11 agreement;
12 (2) has knowingly and voluntarily agreed to execute the
13 agreement; and
14 (3) has had the opportunity to consult with counsel before
15 executing the agreement.

16 SECTION 5. IC 35-33-8-3.4, AS ADDED BY P.L.197-2025,
17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2026]: Sec. 3.4. (a) This section applies only to a violent
19 arrestee. or a repeat violent arrestee.

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

21 (1) "Crime of violence" means an offense:
22 (A) described in IC 35-50-1-2(a); and
23 (B) that is a Level 1, Level 2, Level 3, Level 4, or Level 5
24 felony.

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

28 (3) (2) "Violent arrestee" means a person arrested for or charged
29 with a crime of violence.

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

39 SECTION 6. IC 35-33-8-3.7 IS ADDED TO THE INDIANA
40 CODE AS A NEW SECTION TO READ AS FOLLOWS
41 [EFFECTIVE JANUARY 1, 2027]: **Sec. 3.7. (a) This section does not**
42 **apply to a charge of murder. A person charged with murder shall**

2026

IN 2—LS 7109/DI 106



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1 **be detained as provided in section 2 of this chapter.**

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

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

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

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

15 **(d) At the bail hearing, the arrestee has the right to be**
16 **represented by counsel and, if the arrestee is indigent, to have**
17 **counsel appointed. Except as provided in subsection (e), the**
18 **arrestee also has the right to testify, to present evidence, and to**
19 **cross-examine witnesses.**

20 **(e) An arrestee may compel the victim to testify at a hearing**
21 **under this section only if the arrestee files a verified petition**
22 **requesting the victim's presence and the court grants the petition.**
23 **The court may grant the petition if the ends of justice so require**
24 **and if the court finds the arrestee will be materially prejudiced if**
25 **the victim does not appear. Cross-examination of the victim for the**
26 **purpose of impeachment is insufficient to compel the presence of**
27 **the victim. In deciding whether to compel the appearance of the**
28 **victim, the court shall consider the emotional and physical well**
29 **being of the victim.**

30 **(f) In making a determination of whether to deny bail, a court**
31 **shall consider the following factors, in addition to any other fact or**
32 **circumstance relevant to reasonably assuring appearance and the**
33 **safety of any other person or the community:**

34 **(1) The nature and circumstances of the offense charged,**
35 **including whether the offense is an offense of violence or**
36 **involves alcohol or drug abuse.**

37 **(2) The weight of the evidence against the arrestee.**

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

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



criminal history of the arrestee; and
(B) whether, at the time of the current alleged offense or
at the time of the arrest of the arrestee, the arrestee was
on probation, parole, community corrections, or release
pending trial, sentencing, appeal, or completion of
sentence for the commission of an offense under the laws
of this state, another state, or the United States.

(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.

(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.

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

42 (b) If the court finds, based on the results of the Indiana pretrial

2026

IN 2—LS 7109/DI 106



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

6 (1) The arrestee is charged with murder or treason.
7 (2) The arrestee is on pretrial release not related to the incident
8 that is the basis for the present arrest.
9 (3) The arrestee is on probation, parole, or other community
10 supervision.
11 (4) **The arrestee is a violent arrestee as defined in section 3.4
12 of this chapter.**
13 (5) **The arrestee is a sexually violent predator defendant as
14 defined in section 3.5 of this chapter.**
15 (6) **The arrestee has been denied bail pursuant to section 3.7
16 of this chapter.**
17 (7) **The arrestee is a foreign national who is unlawfully
18 present in the United States as described in section 4.5 of this
19 chapter.**

20 The court is not required to administer an assessment before releasing
21 an arrestee if administering the assessment will delay the arrestee's
22 release.

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