

SENATE BILL No. 2

AM000202 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 35-33-8-2, 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**
13 **any 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.**

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

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

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

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

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

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

15 **(3) (2)** "Violent arrestee" means a person arrested for or charged
16 with a crime of violence.

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

20 arrestee on bail, the court must:
21 (1) review the probable cause affidavit or arrest warrant; and
22 (2) issue a bail bond or set the bail amount.

22 (2) impose money bail payable by surety bond or cash deposit.
23 (d) In accordance with IC 27-10-2-4.5(g)(2), a charitable bail
24 organization may not pay money bail imposed under this section on
25 behalf of a violent arrestee. ~~or a repeat violent arrestee.~~

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

32 (1) misdemeanor; or

33 (2) Level 6 felony;

34 if the misdemeanor or Level 6 felony is the most serious offense
35 with which the person is charged. A person whose most serious
36 charge is a misdemeanor or Level 6 felony is entitled to release on
37 bail.

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1 **unknown or unavailable at the time of the initial hearing.**

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

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

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

9 (e) At the bail hearing, the arrestee has the right to be
10 represented by counsel and, if the arrestee is indigent, to have
11 counsel appointed. Except as provided in subsection (f), the
12 arrestee also has the right to testify, to present evidence, and to
13 cross-examine witnesses.

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

24 (g) In making a determination of whether to deny bail, a court
25 shall consider the following factors, in addition to any other fact or
26 circumstance relevant to reasonably assuring appearance and the
27 safety of any other person or the community:

28 (1) The nature and circumstances of the offense charged,
29 including whether the offense is an offense of violence or
30 involves alcohol or drug abuse.

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

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

33 (A) the character, physical and mental condition, family
34 ties, employment, financial resources, length of
35 residence in the community, community ties, past
36 conduct, history relating to drug or alcohol abuse, and
37 criminal history of the arrestee; and

38 (B) whether, at the time of the current alleged offense or
39 at the time of the arrest of the arrestee, the arrestee was
40 on probation, parole, community corrections, or release
41 pending trial, sentencing, appeal, or completion of
42 sentence for the commission of an offense under the laws



of this 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.

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

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

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

(i) 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.

(j) 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.

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

(l) 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.

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