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SENATE BILL No. 9

Proposed Changes to introduced printing by AM000901

DIGEST OF PROPOSED AMENDMENT

Absent defendant. Specifies that a court may sentence an absent defendant who was tried in absentia or who has failed to appear.

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 35-35-3-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 5. (a) As a part of the
3 recommendation submitted to the court, the prosecuting attorney must
4 certify that **he the prosecuting attorney** has offered to show the
5 proposed recommendation to the victims of the felony, if any, and that
6 they have been offered an opportunity to present their opinion of the
7 recommendation to the prosecuting attorney and the court.

8 (b) A victim present at sentencing in a felony or misdemeanor case
9 shall be advised by the court of a victim's right to make a statement
10 concerning the crime and the sentence. The court shall also offer the
11 victim, if present, an opportunity to make a statement concerning the
12 crime and the sentence. If unable to attend the hearing, the victim may
13 mail a written statement to the court, which must be included in the
14 presentence report made with respect to the defendant.

15 (c) However, this section gives no additional rights to the
16 defendant. Failure to comply gives no grounds for postconviction relief.

17 (d) **Except as provided in subsection (e), the defendant shall be**
18 **present in the courtroom while a victim makes a statement**
19 **concerning the crime and the sentence under this section.**

20 (e) **A court may only excuse a defendant from being in the**
21 **courtroom while a victim makes a statement if the defendant**

2026

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1 presents a safety risk or causes a significant disruption. [However,
 2 this section does not prohibit a court from sentencing a defendant
 3 who is absent from the courtroom if the defendant was tried in
 4 absentia or if the defendant fails to appear.]

5 SECTION 2. IC 35-38-1-12 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 12. (a) Before imposing
 7 sentence, the court shall:

- 8 (1) advise the defendant or ~~his~~ **the defendant's** counsel and the
 9 prosecuting attorney of the factual contents and conclusions of
 10 the presentence investigation; or
- 11 (2) provide the defendant or ~~his~~ **the defendant's** counsel and the
 12 prosecuting attorney with a copy of the presentence report.

13 The court also shall offer the victim, if present, an opportunity to make
 14 a statement concerning the crime and the sentence. **Except as**
 15 **provided in subsection (c), the defendant shall be present in the**
 16 **courtroom while a victim makes a statement concerning the crime**
 17 **and the sentence under this subsection.**

18 (b) The sources of confidential information need not be disclosed.
 19 The court shall furnish the factual contents of the presentence
 20 investigation or a copy of the presentence report sufficiently in advance
 21 of sentencing so that the defendant will be afforded a fair opportunity
 22 to controvert the material included.

23 (c) **A court may only excuse a defendant from being in the**
 24 **courtroom while a victim makes a statement if the defendant**
 25 **presents a safety risk or causes a significant disruption. [However,**
 26 **this section does not prohibit a court from sentencing a defendant**
 27 **who is absent from the courtroom if the defendant was tried in**
 28 **absentia or if the defendant fails to appear.]**

29 SECTION 3. IC 35-40-5-5 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 5. (a) A victim has the
 31 right to be heard at any proceeding involving sentencing, a
 32 postconviction release decision, or a pre-conviction release decision
 33 under a forensic diversion program.

34 (b) **A victim has the right to make a statement concerning the**
 35 **crime and the defendant's sentence in the presence of the defendant**
 36 **unless the defendant:**

- 37 (1) presents a safety risk<or>[;
- 38 (2) causes a significant disruption[;
- 39 (3) was tried in absentia; or
- 40 (4) failed to appear].]

