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SENATE BILL No. 9

Proposed Changes to January 21, 2026 printing by AM000902

DIGEST OF PROPOSED AMENDMENT

Technical. Makes a technical correction.

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**

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1 presents a safety risk or causes a significant disruption. However,
 2 this subsection does not prohibit a court from sentencing a
 3 defendant who is absent from the courtroom if the absence is the
 4 result of the defendant committing:

5 (1) failure to appear (IC 35-44.1-2-9); or

6 (2) escape (IC 35-44.1-3-4).

7 (f) A victim who is unable to make a statement in the presence
 8 of the defendant due to the defendant's commission of an offense
 9 under subsection (e)(1) or (e)(2) has the right to make a statement
 10 at:

11 (1) the defendant's show cause hearing (for a defendant who
 12 failed to appear in violation of IC 35-44.1-2-9); or

13 (2) the defendant's sentencing hearing, if the defendant is
 14 convicted of escape under IC 35-44.1-3-4.

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

18 (1) advise the defendant or his the defendant's counsel and the
 19 prosecuting attorney of the factual contents and conclusions of
 20 the presentence investigation; or

21 (2) provide the defendant or his the defendant's counsel and the
 22 prosecuting attorney with a copy of the presentence report.

23 The court also shall offer the victim, if present, an opportunity to make
 24 a statement concerning the crime and the sentence. **Except as
 25 provided in subsection (c), the defendant shall be present in the
 26 courtroom while a victim makes a statement concerning the crime
 27 and the sentence under this subsection.**

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

33 (c) **A court may only excuse a defendant from being in the
 34 courtroom while a victim makes a statement if the defendant
 35 presents a safety risk or causes a significant disruption. However,
 36 this section does not prohibit a court from sentencing a defendant
 37 who is absent from the courtroom if the absence is the result of the
 38 defendant committing:**

39 (1) failure to appear (IC 35-44.1-2-9); or

40 (2) escape (IC 35-44.1-3-4).

41 (d) A victim who is unable to make a statement in the presence
 42 of the defendant due to the defendant's commission of an offense

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1 under subsection (c)(1) or (c)(2) has the right to make a statement
 2 at:
 3 (1) the defendant's show cause hearing (for a defendant who
 4 failed to appear in violation of IC 35-44.1-2-9); or
 5 (2) the defendant's sentencing hearing, if the defendant is
 6 convicted of escape under IC 35-44.1-3-4. ~~in absentia or if~~
 7 ~~the defendant fails to appear.~~
 8 **§** SECTION 3. IC 35-40-5-5 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 5. (a) A victim has the
 10 right to be heard at any proceeding involving sentencing, a
 11 postconviction release decision, or a pre-conviction release decision
 12 under a forensic diversion program.
 13 (b) A victim has the right to make a statement concerning the
 14 crime and the defendant's sentence in the presence of the defendant
 15 unless the defendant:
 16 (1) presents a safety risk;
 17 (2) causes a significant disruption; or
 18 (3) is absent due to the commission of:
 19 (A) failure to appear (IC 35-44.1-2-9); or
 20 (B) escape (IC 35-44.1-3-4).
 21 (c) A victim who is unable to make a statement in the presence
 22 of the defendant due to the defendant's commission of an offense
 23 under subsection (b)(3) has the right to make a statement at:
 24 (1) the defendant's show cause hearing (for a defendant who
 25 failed to appear in violation of IC 35-44.1-2-9); or
 26 (2) the defendant's sentencing hearing, if the defendant is
 27 convicted of escape under IC 35-44.1-3-4.

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