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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).

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.**

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.

39 (1) failure to appear (IC 35-44.1-2-9); or
40 (2) escape (IC 35-44.1-3-4).

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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 I 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.

