

PRINTING CODE. Deletions appear in <this style type>. Insertions appear in [this style type]. Typeface changes are shown in <this > < style > < type > or in [this] [style] [type].

## SENATE BILL No. 9

Proposed Changes to January 21, 2026 printing by AM000903

### DIGEST OF PROPOSED AMENDMENT

Statements. Specifies that a victim who is unable to make a statement at sentencing because the defendant committed escape or failure to appear may make a statement at the defendant's sentencing hearing for those crimes. Provides that a defendant may not waive the right to be personally present at the time sentence is pronounced.

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 35-31.5-2-348, AS AMENDED BY P.L.58-2020,
- 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2026]: Sec. 348. (a) "Victim", for purposes of IC 35-35-3-5,
- 4 IC 35-38-1-9, IC 35-38-1-12, and IC 35-38-1-17, and IC 35-40-5-5,
- 5 means a person who has suffered harm as a result of a crime.
- 6 (b) "Victim", for purposes of IC 35-37-6, has the meaning set forth
- 7 in IC 35-37-6-3.
- 8 (c) "Victim", for purposes of IC 35-38-7, has the meaning set forth
- 9 in IC 35-38-7-4.
- 10 (d) "Victim", for purposes of IC 35-40, except for IC 35-40-5-5,
- 11 has the meaning set forth in IC 35-40-4-8.
- 12 (e) "Victim", for purposes of IC 35-40.5 has the meaning set forth
- 13 in IC 35-40.5-1-1.
- 14 (f) "Victim", for purposes of IC 35-45-10, has the meaning set
- 15 forth in IC 35-45-10-4.
- 16 ] SECTION <=>[2]. IC 35-35-3-5 IS AMENDED TO READ AS
- 17 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 5. (a) As a part of the
- 18 recommendation submitted to the court, the prosecuting attorney must

M  
a  
r  
k  
u  
p

SB 9—LS 6094/DI 149



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 certify that ~~he~~ **the prosecuting attorney** has offered to show the  
 2 proposed recommendation to the victims of the felony, if any, and that  
 3 they have been offered an opportunity to present their opinion of the  
 4 recommendation to the prosecuting attorney and the court.

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

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

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

17 (e) **A court may only excuse a defendant from being in the  
 18 courtroom while a victim makes a statement if the defendant  
 19 presents a safety risk or causes a significant disruption. However,  
 20 this subsection does not prohibit a court from sentencing a  
 21 defendant who is absent from the courtroom if the absence is the  
 22 result of the defendant committing:**

23 (1) failure to appear (IC [ ]35-44.1-2-9); or

24 (2) escape (IC [ ]35-44.1-3-4).

25 (f) **A victim who is unable to make a statement in the presence  
 26 of the defendant due to the defendant's commission of an offense  
 27 under subsection (e)(1) or (e)(2) has the right to make a statement  
 28 at**

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

31 ~~— (2) the defendant's sentencing hearing~~ **<,>** [ for the offense  
 32 under subsection (e)(1) or (e)(2).

33 SECTION 3. IC 35-38-1-4 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) The defendant  
 35 must be personally present at the time sentence is pronounced. If] the  
 36 defendant is ~~<convicted of escape under IC 35-44.1-3-4.~~

37 ~~— SECTION 2~~ [not personally present when sentence is to be  
 38 pronounced, the court may issue a warrant for his arrest.

39 (b) Sentence may be pronounced against a defendant corporation  
 40 in the absence of counsel, if counsel fails to appear on the date of  
 41 sentencing after reasonable notice.

42 (c) A defendant may not waive the requirement to be

SB 9—LS 6094/DI 149



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M  
a  
r  
k  
u  
p

1 personally present under this section.

2 SECTION 4]. IC 35-38-1-12 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 12. (a) Before imposing  
4 sentence, the court shall:

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

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

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

20 (c) **A court may only excuse a defendant from being in the**  
21 **courtroom while a victim makes a statement if the defendant**  
22 **presents a safety risk or causes a significant disruption. However,**  
23 **this section does not prohibit a court from sentencing a defendant**  
24 **who is absent from the courtroom if the absence is the result of the**  
25 **defendant committing:**

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

28 (d) A victim who is unable to make a statement in the presence  
29 of the defendant due to the defendant's commission of an offense  
30 under subsection (c)(1) or (c)(2) has the right to make a statement  
31 at<:

- 32 ~~— (1) the defendant's show cause hearing (for a defendant who~~  
33 ~~failed to appear in violation of IC 35-44.1-2-9); or~~  
34 ~~— (2) the defendant's sentencing hearing<, if> [ for] the~~  
35 ~~<defendant is convicted of escape under IC 35-44.1-3-4. in~~  
36 ~~absentia or if the defendant fails to appear.~~  
37 ~~— SECTION 3> [offense under subsection (c)(1) or (c)(2).~~

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

SB 9—LS 6094/DI 149



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M  
a  
r  
k  
u  
p

1 (b) A victim has the right to make a statement concerning the  
 2 crime and the defendant's sentence in the presence of the defendant  
 3 unless the defendant:  
 4 (1) presents a safety risk;  
 5 (2) causes a significant disruption; or  
 6 (3) is absent due to the commission of:  
 7 (A) failure to appear (IC 35-44.1-2-9); or  
 8 (B) escape (IC 35-44.1-3-4).  
 9 (c) A victim who is unable to make a statement in the presence  
 10 of the defendant due to the defendant's commission of an offense  
 11 under subsection (b)(3) has the right to make a statement at <:  
 12 ~~(1) the defendant's show cause hearing (for a defendant who~~  
 13 ~~failed to appear in violation of IC 35-44.1-2-9); or~~  
 14 ~~(2)> the defendant's sentencing hearing <, if> [ for ] the~~  
 15 ~~<defendant is convicted of escape> [offense]~~ under  
 16 IC 35-44.1-3-4.

M  
a  
r  
k  
u  
p

SB 9—LS 6094/DI 149



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY