



January 15, 2015

SENATE BILL No. 174

DIGEST OF SB 174 (Updated January 13, 2015 4:40 pm - DI 106)

Citations Affected: IC 35-38.

Synopsis: Sentence modification. Makes a person sentenced before July 1, 2014, eligible for sentence modification on the same terms as a person sentenced on or after that date.

Effective: Upon passage.

Young R Michael

January 6, 2015, read first time and referred to Committee on Corrections & Criminal Law.
January 14, 2015, amended, reported favorably — Do Pass.

SB 174—LS 6119/DI 106



January 15, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 174

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 35-38-1-17, AS AMENDED BY P.L.168-2014,
2 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 17. (a) **Notwithstanding IC 1-1-5.5-21, this**
4 **section applies to a person who:**
5 (1) **commits an offense; or**
6 (2) **is sentenced;**
7 **before July 1, 2014. However, subsection (i) applies only to a**
8 **petition for sentence modification filed after June 30, 2014.**
9 (b) This section does not apply to a credit restricted felon.
10 (b) (c) Not later than three hundred sixty-five (365) days after:
11 (1) a convicted person begins serving the person's sentence; and
12 (2) the court obtains a report from the department of correction
13 concerning the convicted person's conduct while imprisoned;
14 the court may reduce or suspend the sentence and impose a sentence
15 that the court was authorized to impose at the time of sentencing. The
16 court must incorporate its reasons in the record.

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1 ~~(c)~~ **(d)** If more than three hundred sixty-five (365) days have elapsed
 2 since the convicted person began serving the sentence, the court may
 3 reduce or suspend the sentence and impose a sentence that the court
 4 was authorized to impose at the time of sentencing. The court must
 5 incorporate its reasons in the record.

6 ~~(d)~~ **(e)** If the court sets a hearing on a petition under this section, the
 7 court must give notice to the prosecuting attorney and the prosecuting
 8 attorney must give notice to the victim (as defined in IC 35-31.5-2-348)
 9 of the crime for which the convicted person is serving the sentence.

10 ~~(e)~~ **(f)** The court may suspend a sentence for a felony under this
 11 section only if suspension is permitted under IC 35-50-2-2.2.

12 ~~(f)~~ **(g)** The court may deny a request to suspend or reduce a sentence
 13 under this section without making written findings and conclusions.

14 ~~(g)~~ **(h)** The court is not required to conduct a hearing before
 15 reducing or suspending a sentence under this section if:

16 (1) the prosecuting attorney has filed with the court an agreement
 17 of the reduction or suspension of the sentence; and

18 (2) the convicted person has filed with the court a waiver of the
 19 right to be present when the order to reduce or suspend the
 20 sentence is considered.

21 ~~(h)~~ **(i)** A convicted person may file a petition for sentence
 22 modification under this section:

23 (1) not more than one (1) time in any three hundred sixty-five
 24 (365) day period; and

25 (2) a maximum of two (2) times during any consecutive period of
 26 incarceration.

27 ~~(i)~~ **(j)** A person may not waive the right to sentence modification
 28 under this section as part of a plea agreement. Any purported waiver of
 29 the right to sentence modification under this section in a plea
 30 agreement is invalid and unenforceable as against public policy. This
 31 subsection does not prohibit the finding of a waiver of the right to
 32 sentence modification for any other reason, including failure to comply
 33 with the provisions of this section.

34 **SECTION 2. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 174, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete "JULY 1, 2015]" and insert "UPON PASSAGE]:".

Page 2, after line 33, begin a new paragraph and insert:
"SECTION 2. **An emergency is declared for this act.**"

and when so amended that said bill do pass.

(Reference is to SB 174 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 9, Nays 0.

