



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1004 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 11-12-6.5-4, AS ADDED BY P.L.239-2019,
4 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2022]: Sec. 4. The costs of incarcerating a confined jail
6 offender under ~~IC 35-38-3-3(f)~~ **IC 35-38-3-3(e)** shall be used to pay for
7 the confined jail offender housed in either a regional holding facility or
8 a county jail."
9 Page 9, delete lines 38 through 42, begin a new paragraph and
10 insert:
11 "SECTION 10. IC 35-38-3-3, AS AMENDED BY P.L.156-2020,
12 SECTION 129, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) Except as provided by
14 subsection (b), a person convicted of a misdemeanor may not be
15 committed to the department of correction.
16 (b) Upon a request from the sheriff, the commissioner may agree to
17 accept custody of a misdemeanant:
18 (1) if placement in the county jail:
19 (A) places the inmate in danger of serious bodily injury or
20 death; or
21 (B) represents a substantial threat to the safety of others;
22 (2) for other good cause shown; or
23 (3) if a person has more than five hundred forty-seven (547) days
24 remaining before the person's earliest release date as a result of:
25 (A) consecutive misdemeanor sentences; or
26 (B) a sentencing enhancement applied to a misdemeanor
27 sentence.

1 (c) After June 30, 2014, and before January 1, 2016, a court may not
 2 commit a person convicted of a Level 6 felony to the department of
 3 correction if the person's earliest possible release date is less than
 4 ninety-one (91) days from the date of sentencing, unless the
 5 commitment is due to the person violating a condition of probation,
 6 parole, or community corrections by committing a new criminal
 7 offense.

8 ~~(d)~~ (c) A court may not commit a person convicted of a Level 6
 9 felony to the department of correction unless:

10 (1) the commitment is due to the revocation of the person's
 11 sentence for violating probation, parole, or community corrections
 12 and the revocation of the person's sentence is due to a new
 13 criminal offense;

14 (2) the person is convicted of a Level 6 felony that was committed
 15 in a penal facility; or

16 (3) the person:

17 (A) is convicted of a Level 6 felony and the sentence for that
 18 felony is ordered to be served consecutively to the sentence for
 19 another felony;

20 (B) is convicted of a Level 6 felony that is enhanced by an
 21 additional fixed term under IC 35-50-2-8 through
 22 IC 35-50-2-16;

23 (C) has received an enhanced sentence under IC 9-30-15.5-2;

24 (D) is a violent offender as defined in IC 35-31.5-2-352(1); or

25 (E) has two (2) prior unrelated felony convictions;

26 and the person's earliest possible release date is more than three
 27 hundred sixty-five (365) days after the date of sentencing; or

28 (4) the commitment is due to an agreement made between the
 29 sheriff and the department of correction under IC 11-12-6.5; or

30 **(5) the Level 6 felony is committed after June 30, 2022, and**
 31 **the person consents to commitment to the department of**
 32 **correction.**

33 A person who may not be committed to the department of correction
 34 may be placed on probation, committed to the county jail, or placed in
 35 community corrections for assignment to an appropriate community
 36 corrections program.

37 ~~(e)~~ (d) Subject to appropriation from the general assembly, a sheriff
 38 is entitled to a per diem and medical expense reimbursement from the
 39 department of correction for the cost of incarcerating a person
 40 described in ~~subsections (c) and (d)~~ **subsection (c)** in a county jail. The
 41 sheriff is entitled to a per diem and medical expense reimbursement
 42 only for the time that the person described in ~~subsections (c) and (d)~~
 43 **subsection (c)** is incarcerated in the county jail.

44 ~~(f)~~ (e) Per diem and medical expense reimbursements received by
 45 a county under this section or received by a county from the state under
 46 any other law for the purpose of reimbursing sheriffs for the cost of

1 incarcerating in county jails persons convicted of felonies:
2 (1) shall be deposited in the county general fund; and
3 (2) upon appropriation by the county fiscal body, shall be used by
4 the county sheriff only for the purposes of paying the costs of
5 incarcerating in the county jail persons described in ~~subsections~~
6 ~~(e) and (d)~~ **subsection (c)** or other persons convicted of felonies.
7 ~~(g)~~ **(f)** The county auditor shall semiannually provide to the county
8 fiscal body and the county sheriff an itemized record of the per diem
9 and medical expense reimbursements received by the county under this
10 section or under any other law for the purpose of reimbursing sheriffs
11 for the cost of incarcerating persons convicted of felonies."
12 Delete page 10.
13 Page 11, delete lines 1 through 31.
 (Reference is to EHB 1004 as printed February 18, 2022.)

Senator POL JR.