

# HOUSE BILL No. 1129

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-12-5-4; IC 35-33-8-7.

**Synopsis:** Bond. Provides that a defendant's bond will be automatically forfeited if a defendant fails to appear for court unless the court orders the defendant's bond to not be forfeited. Provides that a defendant's bond will be automatically forfeited if a defendant is charged with a new offense while out on bond unless the court orders the defendant's bond to not be forfeited. Makes a technical correction.

**Effective:** July 1, 2016.

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January 7, 2016, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

# HOUSE BILL No. 1129

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 11-12-5-4 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. Sections 2 and 3 of  
3 this chapter do not apply to a person serving a term of imprisonment  
4 under ~~IC 35-38-2-2.3(c)~~ **IC 35-38-2-2.3(d)**.

5 SECTION 2. IC 35-33-8-7, AS AMENDED BY P.L.105-2010,  
6 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2016]: Sec. 7. (a) If a defendant:  
8 (1) was admitted to bail under section 3.2(a)(2) of this chapter;  
9 and  
10 (2) has failed to appear before the court as ordered;  
11 the court shall, except as provided in subsection ~~(b)~~ **(c)** or section 8(b)  
12 of this chapter, declare the bond forfeited not earlier than ~~one hundred~~  
13 ~~twenty~~ **(120) sixty (60)** days after the defendant's failure to appear and  
14 issue a warrant for the defendant's arrest **unless the court orders the**  
15 **bond to not be forfeited.**  
16 **(b) If a defendant:**  
17 **(1) was admitted to bail under section 3.2(a)(2) of this**



1           **chapter; and**  
 2           **(2) has failed to appear before the court as ordered;**  
 3           **and the state has presented clear and convincing evidence that,**  
 4           **while admitted to bail, the defendant has been charged with a new**  
 5           **offense, the bond, except as provided in subsection (c) or section**  
 6           **8(b) of this chapter, shall be immediately forfeited and a warrant**  
 7           **issued for the defendant's arrest unless the court orders the bond**  
 8           **to not be forfeited.**

9           ~~(b)~~ **(c)** In a criminal case, if the court having jurisdiction over the  
 10          criminal case receives written notice of a pending civil action or  
 11          unsatisfied judgment against the criminal defendant arising out of the  
 12          same transaction or occurrence forming the basis of the criminal case,  
 13          funds deposited with the clerk of the court under section 3.2(a)(2) of  
 14          this chapter may not be declared forfeited by the court, and the court  
 15          shall order the deposited funds to be held by the clerk. If there is an  
 16          entry of final judgment in favor of the plaintiff in the civil action, and  
 17          if the deposit and the bond are subject to forfeiture, the criminal court  
 18          shall order payment of all or any part of the deposit to the plaintiff in  
 19          the action, as is necessary to satisfy the judgment. The court shall then  
 20          order the remainder of the deposit, if any, and the bond forfeited.

21          ~~(c)~~ **(d)** Any proceedings concerning the bond, or its forfeiture,  
 22          judgment, or execution of judgment, shall be held in the court that  
 23          admitted the defendant to bail.

24          ~~(d)~~ **(e)** After a bond has been forfeited under subsection (a), ~~or~~ (b),  
 25          **or (c)**, the clerk shall mail notice of forfeiture to the defendant. In  
 26          addition, unless the court finds that there was justification for the  
 27          defendant's failure to appear, the court shall immediately enter  
 28          judgment, without pleadings and without change of judge or change of  
 29          venue, against the defendant for the amount of the bail bond, and the  
 30          clerk shall record the judgment.

31          ~~(e)~~ **(f)** If a bond is forfeited and the court has entered a judgment  
 32          under subsection ~~(d)~~, **(e)**, the clerk shall transfer to the state common  
 33          school fund:

34               (1) any amount remaining on deposit with the court (less the fees  
 35               retained by the clerk); and

36               (2) any amount collected in satisfaction of the judgment.

37          ~~(f)~~ **(g)** The clerk shall return a deposit, less the administrative fee,  
 38          made under section 3.2(a)(2) of this chapter to the defendant, if the  
 39          defendant appeared at trial and the other critical stages of the legal  
 40          proceedings.

