



February 4, 2021

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## HOUSE BILL No. 1202

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DIGEST OF HB 1202 (Updated February 3, 2021 7:28 pm - DI 131)

**Citations Affected:** IC 11-13.

**Synopsis:** Sentencing. Lists certain offenses committed before July 1, 2014, that provides an inmate relief from the inmate's sentence. Reduces the number of consecutive years that an inmate must be confined to the custody of the department, for an offense committed before July 1, 2014, before the department identifies the inmate to the parole board and provides the parole board with the inmate's offender progress report. Provides that upon recommendation by the warden, the parole board may consider certain factors and discharge an inmate and require that the inmate receive post-incarceration reentry services if the sentence an inmate has served, including credit time earned or accrued, for an offense committed before July 1, 2014, is at least 75% of the current advisory sentence for the offense on the date the inmate files for a petition for discharge. Provides that if an inmate has served a sentence for an offense committed before July 1, 2014, that meets or exceeds 75% of the maximum sentence for the same offense that the inmate is currently seeking relief for, the parole board may discharge and release the inmate from the inmate's entire sentence.

**Effective:** July 1, 2021.

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## McNamara, Morris

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January 7, 2021, read first time and referred to Committee on Courts and Criminal Code.  
February 4, 2021, amended, reported — Do Pass.

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HB 1202—LS 6396/DI 131





February 4, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## HOUSE BILL No. 1202

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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 11-13-9-2, AS AMENDED BY P.L.74-2015,  
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 2. (a) As used in this section, the years of an  
4 inmate's confinement are "consecutive" if:  
5 (1) the inmate has remained in the continuous custody of the  
6 department for the requisite length of time; or  
7 (2) the inmate would have remained in the continuous custody of  
8 the department for the requisite length of time, but:  
9 (A) was released from the custody of the department on the  
10 basis of an erroneous court order; and  
11 (B) returned to the custody of the department not later than  
12 seventy-two (72) hours after the erroneous court order was  
13 rescinded.  
14 (b) Notwithstanding any other law, as soon as practicable after an  
15 inmate has been confined to the custody of the department for:  
16 (1) twenty-five (25) consecutive years;  
17 (2) twenty-four (24) consecutive years if the inmate has received

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1           one (1) year of educational credit under IC 35-50-6-3.3;  
 2           (3) twenty-three (23) consecutive years if the inmate has received  
 3           two (2) years of educational credit under IC 35-50-6-3.3;  
 4           (4) twenty-two (22) consecutive years if the inmate has received  
 5           three (3) years of educational credit under IC 35-50-6-3.3; or  
 6           (5) twenty-one (21) consecutive years if the inmate has received  
 7           four (4) years of educational credit under IC 35-50-6-3.3;  
 8           the department shall identify the inmate to the parole board and provide  
 9           the parole board with the inmate's offender progress report.

10           **(c) This subsection only applies to section 5.5 of this chapter.**  
 11           **Notwithstanding any other law, as soon as practicable after an**  
 12           **inmate has been confined to the custody of the department for:**

13           **(1) fifteen (15) consecutive years;**  
 14           **(2) fourteen (14) consecutive years if the inmate has received**  
 15           **one (1) year of educational credit under IC 35-50-6-3.3;**  
 16           **(3) thirteen (13) consecutive years if the inmate has received**  
 17           **two (2) years of educational credit under IC 35-50-6-3.3;**  
 18           **(4) twelve (12) consecutive years if the inmate has received**  
 19           **three (3) years of educational credit under IC 35-50-6-3.3; or**  
 20           **(5) eleven (11) consecutive years if the inmate has received**  
 21           **four (4) years of educational credit under IC 35-50-6-3.3;**  
 22           **the department shall identify the inmate to the parole board and**  
 23           **provide the parole board with the inmate's offender progress**  
 24           **report.**

25           SECTION 2. IC 11-13-9-5.5 IS ADDED TO THE INDIANA CODE  
 26           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 27           1, 2021]: **Sec. 5.5. (a) Notwithstanding IC 1-1-5.5-21, this section**  
 28           **applies to a person serving a sentence for the following offenses**  
 29           **committed before July 1, 2014:**

30           **(1) Theft (IC 35-43-4-2).**  
 31           **(2) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).**  
 32           **(3) Dealing in methamphetamine (IC 35-48-4-1.1).**  
 33           **(4) Dealing in a schedule I, II, or III controlled substance or**  
 34           **controlled substance analog (IC 35-48-4-2).**  
 35           **(5) Dealing in a schedule IV controlled substance or controlled**  
 36           **substance analog (IC 35-48-4-3).**  
 37           **(6) Dealing in a schedule V controlled substance or controlled**  
 38           **substance analog (IC 35-48-4-4).**  
 39           **(7) Possession of cocaine or a narcotic drug (IC 35-48-4-6).**  
 40           **(8) Possession of methamphetamine (IC 35-48-4-6.1).**  
 41           **(9) Possession of a controlled substance or controlled**  
 42           **substance analog; obtaining a schedule V controlled substance**



- 1 (IC 35-48-4-7).  
 2 (10) Dealing in marijuana, hash oil, hashish, or salvia  
 3 (IC 35-48-4-10).  
 4 (11) Possession of marijuana, hash oil, hashish, or salvia  
 5 (IC 35-48-4-11).  
 6 (b) This section does not apply to the following:  
 7 (1) An inmate or a person described in section 1 of this  
 8 chapter.  
 9 (2) An inmate who is a violent criminal (as defined in  
 10 IC 35-38-1-17).  
 11 (3) An inmate who has a prior unrelated conviction for:  
 12 (A) a violent offense (as defined in IC 11-12-3.7-6);  
 13 (B) battery (IC 35-42-2-1);  
 14 (C) domestic battery (IC 35-42-2-1.3); or  
 15 (D) strangulation (IC 35-42-2-9).  
 16 (c) Upon recommendation by the warden, the parole board may  
 17 consider all relevant factors in determining whether the inmate is  
 18 to be discharged under this section and must consider a community  
 19 investigation report submitted to the parole board. The parole  
 20 board may give special consideration to an inmate who  
 21 demonstrates one (1) or more of the following:  
 22 (1) A good conduct history during confinement.  
 23 (2) Proof that the inmate will have suitable living quarters in  
 24 a community if the inmate is discharged.  
 25 (3) Proof that one (1) or more employers in the area in which  
 26 the inmate would reside if discharged have offered to employ  
 27 the inmate for at least thirty (30) hours a week on the same  
 28 terms as the employer employs other employees.  
 29 (4) Proof that the inmate:  
 30 (A) is at least a high school graduate; or  
 31 (B) has obtained:  
 32 (i) a general equivalency degree; or  
 33 (ii) a state of Indiana general educational development  
 34 (GED) diploma.  
 35 (d) After considering all relevant factors under subsection (c),  
 36 the parole board may discharge an inmate to whom this section  
 37 applies and require that the inmate receive post-incarceration  
 38 reentry services if the sentence an inmate has served, including any  
 39 credit time earned or accrued, for an offense committed before  
 40 July 1, 2014, is at least seventy-five percent (75%) of the current  
 41 advisory sentence for the offense on the date the inmate files for a  
 42 petition for discharge under this chapter. However, the parole



1     **board shall not discharge an inmate as described in this section if**  
2     **the inmate's conduct while confined establishes that the inmate has**  
3     **not been properly rehabilitated or continues to pose a significant**  
4     **threat to public safety.**  
5     **(e) If an inmate has served a sentence for an offense described**  
6     **in this section that was committed before July 1, 2014, that meets**  
7     **or exceeds seventy-five percent (75%) of the maximum sentence**  
8     **for the same offense that the inmate is currently seeking relief for**  
9     **as described in subsection (d), the parole board may discharge and**  
10    **release the inmate from the inmate's entire sentence.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1202, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 11-13-9-2, AS AMENDED BY P.L.74-2015, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) As used in this section, the years of an inmate's confinement are "consecutive" if:

- (1) the inmate has remained in the continuous custody of the department for the requisite length of time; or
- (2) the inmate would have remained in the continuous custody of the department for the requisite length of time, but:
  - (A) was released from the custody of the department on the basis of an erroneous court order; and
  - (B) returned to the custody of the department not later than seventy-two (72) hours after the erroneous court order was rescinded.

(b) Notwithstanding any other law, as soon as practicable after an inmate has been confined to the custody of the department for:

- (1) twenty-five (25) consecutive years;
- (2) twenty-four (24) consecutive years if the inmate has received one (1) year of educational credit under IC 35-50-6-3.3;
- (3) twenty-three (23) consecutive years if the inmate has received two (2) years of educational credit under IC 35-50-6-3.3;
- (4) twenty-two (22) consecutive years if the inmate has received three (3) years of educational credit under IC 35-50-6-3.3; or
- (5) twenty-one (21) consecutive years if the inmate has received four (4) years of educational credit under IC 35-50-6-3.3;

the department shall identify the inmate to the parole board and provide the parole board with the inmate's offender progress report.

**(c) This subsection only applies to section 5.5 of this chapter. Notwithstanding any other law, as soon as practicable after an inmate has been confined to the custody of the department for:**

- (1) fifteen (15) consecutive years;**
- (2) fourteen (14) consecutive years if the inmate has received one (1) year of educational credit under IC 35-50-6-3.3;**
- (3) thirteen (13) consecutive years if the inmate has received two (2) years of educational credit under IC 35-50-6-3.3;**
- (4) twelve (12) consecutive years if the inmate has received three (3) years of educational credit under IC 35-50-6-3.3; or**



**(5) eleven (11) consecutive years if the inmate has received four (4) years of educational credit under IC 35-50-6-3.3; the department shall identify the inmate to the parole board and provide the parole board with the inmate's offender progress report.**

**SECTION 2. IC 11-13-9-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5.5. (a) Notwithstanding IC 1-1-5.5-21, this section applies to a person serving a sentence for the following offenses committed before July 1, 2014:**

- (1) Theft (IC 35-43-4-2).**
- (2) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).**
- (3) Dealing in methamphetamine (IC 35-48-4-1.1).**
- (4) Dealing in a schedule I, II, or III controlled substance or controlled substance analog (IC 35-48-4-2).**
- (5) Dealing in a schedule IV controlled substance or controlled substance analog (IC 35-48-4-3).**
- (6) Dealing in a schedule V controlled substance or controlled substance analog (IC 35-48-4-4).**
- (7) Possession of cocaine or a narcotic drug (IC 35-48-4-6).**
- (8) Possession of methamphetamine (IC 35-48-4-6.1).**
- (9) Possession of a controlled substance or controlled substance analog; obtaining a schedule V controlled substance (IC 35-48-4-7).**
- (10) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).**
- (11) Possession of marijuana, hash oil, hashish, or salvia (IC 35-48-4-11).**

**(b) This section does not apply to the following:**

- (1) An inmate or a person described in section 1 of this chapter.**
- (2) An inmate who is a violent criminal (as defined in IC 35-38-1-17).**
- (3) An inmate who has a prior unrelated conviction for:**
  - (A) a violent offense (as defined in IC 11-12-3.7-6);**
  - (B) battery (IC 35-42-2-1);**
  - (C) domestic battery (IC 35-42-2-1.3); or**
  - (D) strangulation (IC 35-42-2-9).**

**(c) Upon recommendation by the warden, the parole board may consider all relevant factors in determining whether the inmate is to be discharged under this section and must consider a community investigation report submitted to the parole board. The parole**





board may give special consideration to an inmate who demonstrates one (1) or more of the following:

- (1) A good conduct history during confinement.
- (2) Proof that the inmate will have suitable living quarters in a community if the inmate is discharged.
- (3) Proof that one (1) or more employers in the area in which the inmate would reside if discharged have offered to employ the inmate for at least thirty (30) hours a week on the same terms as the employer employs other employees.
- (4) Proof that the inmate:
  - (A) is at least a high school graduate; or
  - (B) has obtained:
    - (i) a general equivalency degree; or
    - (ii) a state of Indiana general educational development (GED) diploma.

(d) After considering all relevant factors under subsection (c), the parole board may discharge an inmate to whom this section applies and require that the inmate receive post-incarceration reentry services if the sentence an inmate has served, including any credit time earned or accrued, for an offense committed before July 1, 2014, is at least seventy-five percent (75%) of the current advisory sentence for the offense on the date the inmate files for a petition for discharge under this chapter. However, the parole board shall not discharge an inmate as described in this section if the inmate's conduct while confined establishes that the inmate has not been properly rehabilitated or continues to pose a significant threat to public safety.

(e) If an inmate has served a sentence for an offense described in this section that was committed before July 1, 2014, that meets or exceeds seventy-five percent (75%) of the maximum sentence for the same offense that the inmate is currently seeking relief for as described in subsection (d), the parole board may discharge and release the inmate from the inmate's entire sentence."

Delete pages 2 through 6.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1202 as introduced.)

MCNAMARA

Committee Vote: yeas 10, nays 2.

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