

HOUSE BILL No. 1279

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-50-1-2.

Synopsis: Sentencing and incarceration. Requires the court to consider certain factors in determining whether a sentence should be served consecutively or concurrently.

Effective: July 1, 2024.

Pierce K

January 9, 2024, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1279



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 35-50-1-2, AS AMENDED BY P.L.142-2020,
- 2 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2024]: Sec. 2. (a) As used in this section, "crime of violence"
- 4 means the following:
- 5 (1) Murder (IC 35-42-1-1).
- 6 (2) Attempted murder (IC 35-41-5-1).
- 7 (3) Voluntary manslaughter (IC 35-42-1-3).
- 8 (4) Involuntary manslaughter (IC 35-42-1-4).
- 9 (5) Reckless homicide (IC 35-42-1-5).
- 10 (6) Battery (IC 35-42-2-1) as a:
- 11 (A) Level 2 felony;
- 12 (B) Level 3 felony;
- 13 (C) Level 4 felony; or
- 14 (D) Level 5 felony.
- 15 (7) Domestic battery (IC 35-42-2-1.3) as a:
- 16 (A) Level 2 felony;
- 17 (B) Level 3 felony;



- 1 (C) Level 4 felony; or
 2 (D) Level 5 felony.
 3 (8) Aggravated battery (IC 35-42-2-1.5).
 4 (9) Kidnapping (IC 35-42-3-2).
 5 (10) Rape (IC 35-42-4-1).
 6 (11) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 7 (12) Child molesting (IC 35-42-4-3).
 8 (13) Sexual misconduct with a minor as a Level 1 felony under
 9 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
 10 (14) Robbery as a Level 2 felony or a Level 3 felony (IC
 11 35-42-5-1).
 12 (15) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 13 or Level 4 felony (IC 35-43-2-1).
 14 (16) Operating a vehicle while intoxicated causing death or
 15 catastrophic injury (IC 9-30-5-5).
 16 (17) Operating a vehicle while intoxicated causing serious bodily
 17 injury to another person (IC 9-30-5-4).
 18 (18) Child exploitation as a Level 5 felony under IC 35-42-4-4(b)
 19 or a Level 4 felony under IC 35-42-4-4(c).
 20 (19) Resisting law enforcement as a felony (IC 35-44.1-3-1).
 21 (20) Unlawful possession of a firearm by a serious violent felon
 22 (IC 35-47-4-5).
 23 (21) Strangulation (IC 35-42-2-9) as a Level 5 felony.
 24 (b) As used in this section, "episode of criminal conduct" means
 25 offenses or a connected series of offenses that are closely related in
 26 time, place, and circumstance.
 27 (c) Except as provided in subsection (e) or (f), the court shall
 28 determine whether terms of imprisonment shall be served concurrently
 29 or consecutively. **In determining whether a sentence should be**
 30 **served concurrently or consecutively**, the court ~~may~~ **shall** consider:
 31 ~~the~~
 32 (1) ~~the~~ **the** aggravating circumstances in IC 35-38-1-7.1(a); ~~and~~
 33 (2) ~~the~~ **the** mitigating circumstances in IC 35-38-1-7.1(b); **and**
 34 (3) **whether the crime is a crime of violence;**
 35 in making a determination under this subsection. The court may order
 36 terms of imprisonment to be served consecutively even if the sentences
 37 are not imposed at the same time. However, except for crimes of
 38 violence, the total of the consecutive terms of imprisonment, exclusive
 39 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10
 40 (before its repeal) to which the defendant is sentenced for felony
 41 convictions arising out of an episode of criminal conduct shall not
 42 exceed the period described in subsection (d).



1 (d) Except as provided in subsection (c), the total of the consecutive
2 terms of imprisonment to which the defendant is sentenced for felony
3 convictions arising out of an episode of criminal conduct may not
4 exceed the following:

5 (1) If the most serious crime for which the defendant is sentenced
6 is a Level 6 felony, the total of the consecutive terms of
7 imprisonment may not exceed four (4) years.

8 (2) If the most serious crime for which the defendant is sentenced
9 is a Level 5 felony, the total of the consecutive terms of
10 imprisonment may not exceed seven (7) years.

11 (3) If the most serious crime for which the defendant is sentenced
12 is a Level 4 felony, the total of the consecutive terms of
13 imprisonment may not exceed fifteen (15) years.

14 (4) If the most serious crime for which the defendant is sentenced
15 is a Level 3 felony, the total of the consecutive terms of
16 imprisonment may not exceed twenty (20) years.

17 (5) If the most serious crime for which the defendant is sentenced
18 is a Level 2 felony, the total of the consecutive terms of
19 imprisonment may not exceed thirty-two (32) years.

20 (6) If the most serious crime for which the defendant is sentenced
21 is a Level 1 felony, the total of the consecutive terms of
22 imprisonment may not exceed forty-two (42) years.

23 (e) If, after being arrested for one (1) crime, a person commits
24 another crime:

25 (1) before the date the person is discharged from probation,
26 parole, or a term of imprisonment imposed for the first crime; or

27 (2) while the person is released:

28 (A) upon the person's own recognizance; or

29 (B) on bond;

30 the terms of imprisonment for the crimes shall be served consecutively,
31 regardless of the order in which the crimes are tried and sentences are
32 imposed.

33 (f) If the factfinder determines under IC 35-50-2-11 that a person
34 used a firearm in the commission of the offense for which the person
35 was convicted, the term of imprisonment for the underlying offense and
36 the additional term of imprisonment imposed under IC 35-50-2-11
37 must be served consecutively.

