



January 21, 2022

SENATE BILL No. 6

DIGEST OF SB 6 (Updated January 18, 2022 2:31 pm - DI 106)

Citations Affected: IC 35-33; IC 35-40.

Synopsis: Bail for violent arrestees. Defines "violent crime", "violent arrestee", "repeat violent arrestee", and "minimum bail amount", and requires: (1) a court to review the probable cause affidavit or arrest warrant before releasing a violent arrestee or repeat violent arrestee on bail; (2) bail to be set for a violent arrestee or repeat violent arrestee following a hearing in open court; and (3) a repeat violent arrestee released on bail to pay 100% of the minimum bail amount by cash deposit. Prohibits a third party who is not a close relative of a repeat violent arrestee from posting bail for the repeat violent arrestee. Requires mandatory bail revocation for a violent arrestee who commits a felony while released. Provides for victim notification of bail hearings. Requires nonmonetary release for non-violent arrestees under certain circumstances. Makes conforming amendments.

Effective: July 1, 2022.

**Young M, Sandlin, Freeman,
Walker K, Crider, Baldwin**

January 4, 2022, read first time and referred to Committee on Corrections and Criminal Law.
January 20, 2022, amended, reported favorably — Do Pass.

SB 6—LS 6483/DI 106



January 21, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 6

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 35-33-8-3.2, AS AMENDED BY P.L.161-2018,
2 SECTION 115, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2022]: Sec. 3.2. (a) After considering the results
4 of the Indiana pretrial risk assessment system (if available), other
5 relevant factors, and bail guidelines described in section 3.8 of this
6 chapter, a court may admit a defendant to bail and, **except as provided**
7 **in section 3.7 of this chapter**, impose any of the following conditions
8 to assure the defendant's appearance at any stage of the legal
9 proceedings, or, upon a showing of clear and convincing evidence that
10 the defendant poses a risk of physical danger to another person or the
11 community, to assure the public's physical safety:
12 (1) Require the defendant to:
13 (A) execute a bail bond with sufficient solvent sureties;
14 (B) deposit cash or securities in an amount equal to the bail;
15 (C) execute a bond secured by real estate in the county, where
16 ~~thirty-three hundredths (0.33)~~ **of the true tax the assessed**
17 **value of the property** less encumbrances is at least equal to

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- 1 the amount of the bail;
 2 (D) post a real estate bond; or
 3 (E) perform any combination of the requirements described in
 4 clauses (A) through (D).
- 5 If the court requires the defendant to deposit cash or cash and
 6 another form of security as bail, the court may require the
 7 defendant and each person who makes the deposit on behalf of the
 8 defendant to execute an agreement that allows the court to retain
 9 all or a part of the cash to pay publicly paid costs of
 10 representation and fines, costs, fees, and restitution that the court
 11 may order the defendant to pay if the defendant is convicted. The
 12 defendant must also pay the fee required by subsection (d).
- 13 (2) Require the defendant to execute:
- 14 (A) a bail bond by depositing cash or securities with the clerk
 15 of the court in an amount not less than ten percent (10%) of
 16 the bail; and
 17 (B) an agreement that allows the court to retain all or a part of
 18 the cash or securities to pay fines, costs, fees, and restitution
 19 that the court may order the defendant to pay if the defendant
 20 is convicted.
- 21 A portion of the deposit, not to exceed ten percent (10%) of the
 22 monetary value of the deposit or fifty dollars (\$50), whichever is
 23 the lesser amount, may be retained as an administrative fee. The
 24 clerk shall also retain from the deposit under this subdivision
 25 fines, costs, fees, and restitution as ordered by the court, publicly
 26 paid costs of representation that shall be disposed of in
 27 accordance with subsection (b), and the fee required by
 28 subsection (d). In the event of the posting of a real estate bond,
 29 the bond shall be used only to insure the presence of the
 30 defendant at any stage of the legal proceedings, but shall not be
 31 foreclosed for the payment of fines, costs, fees, or restitution. The
 32 individual posting bail for the defendant or the defendant
 33 admitted to bail under this subdivision must be notified by the
 34 sheriff, court, or clerk that the defendant's deposit may be
 35 forfeited under section 7 of this chapter or retained under
 36 subsection (b).
- 37 (3) Impose reasonable restrictions on the activities, movements,
 38 associations, and residence of the defendant during the period of
 39 release.
- 40 (4) Except as provided in section 3.6 of this chapter, require the
 41 defendant to refrain from any direct or indirect contact with an
 42 individual and, if the defendant has been charged with an offense



- 1 under IC 35-46-3, any animal belonging to the individual,
2 including if the defendant has not been released from lawful
3 detention.
- 4 (5) Place the defendant under the reasonable supervision of a
5 probation officer, pretrial services agency, or other appropriate
6 public official. If the court places the defendant under the
7 supervision of a probation officer or pretrial services agency, the
8 court shall determine whether the defendant must pay the pretrial
9 services fee under section 3.3 of this chapter.
- 10 (6) Release the defendant into the care of a qualified person or
11 organization responsible for supervising the defendant and
12 assisting the defendant in appearing in court. The supervisor shall
13 maintain reasonable contact with the defendant in order to assist
14 the defendant in making arrangements to appear in court and,
15 where appropriate, shall accompany the defendant to court. The
16 supervisor need not be financially responsible for the defendant.
- 17 (7) Release the defendant on personal recognizance unless:
18 (A) the state presents evidence relevant to a risk by the
19 defendant:
20 (i) of nonappearance; or
21 (ii) to the physical safety of the public; and
22 (B) the court finds by a preponderance of the evidence that the
23 risk exists.
- 24 (8) Require a defendant charged with an offense under IC 35-46-3
25 to refrain from owning, harboring, or training an animal.
- 26 (9) Impose any other reasonable restrictions designed to assure
27 the defendant's presence in court or the physical safety of another
28 person or the community.
- 29 (b) Within thirty (30) days after disposition of the charges against
30 the defendant, the court that admitted the defendant to bail shall order
31 the clerk to remit the amount of the deposit remaining under subsection
32 (a)(2) to the defendant. The portion of the deposit that is not remitted
33 to the defendant shall be deposited by the clerk in the supplemental
34 public defender services fund established under IC 33-40-3.
- 35 (c) For purposes of subsection (b), "disposition" occurs when the
36 indictment or information is dismissed or the defendant is acquitted or
37 convicted of the charges.
- 38 (d) Except as provided in subsection (e), the clerk of the court shall:
39 (1) collect a fee of five dollars (\$5) from each bond or deposit
40 required under subsection (a)(1); and
41 (2) retain a fee of five dollars (\$5) from each deposit under
42 subsection (a)(2).



1 The clerk of the court shall semiannually remit the fees collected under
 2 this subsection to the board of trustees of the Indiana public retirement
 3 system for deposit in the special death benefit fund. The fee required
 4 by subdivision (2) is in addition to the administrative fee retained under
 5 subsection (a)(2).

6 (e) With the approval of the clerk of the court, the county sheriff
 7 may collect the bail posted under this section. The county sheriff shall
 8 remit the bail to the clerk of the court by the following business day
 9 and remit monthly the five dollar (\$5) special death benefit fee to the
 10 county auditor.

11 (f) When a court imposes a condition of bail described in subsection
 12 (a)(4):

- 13 (1) the clerk of the court shall comply with IC 5-2-9; and
 14 (2) the prosecuting attorney shall file a confidential form
 15 prescribed or approved by the office of judicial administration
 16 with the clerk.

17 SECTION 2. IC 35-33-8-3.5, AS AMENDED BY P.L.187-2017,
 18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2022]: Sec. 3.5. (a) This section applies only to a sexually
 20 violent predator defendant. **The requirements of this section are in
 21 addition to the requirements of section 3.7 of this chapter.**

22 (b) As used in this section, "sexually violent predator defendant"
 23 means a person who:

- 24 (1) is a sexually violent predator under IC 35-38-1-7.5; and
 25 (2) is arrested for or charged with the commission of an offense
 26 that would classify the person as a sex or violent offender (as
 27 defined in IC 11-8-8-5).

28 (c) A court may not admit a:

- 29 (1) sexually violent predator defendant;
 30 (2) person charged with child molesting (IC 35-42-4-3); or
 31 (3) person charged with child solicitation (IC 35-42-4-6);

32 to bail until the court has conducted a bail hearing in open court.
 33 Except as provided in section 6 of this chapter, the court shall conduct
 34 a bail hearing not later than forty-eight (48) hours after the person has
 35 been arrested, unless exigent circumstances prevent holding the
 36 hearing within forty-eight (48) hours.

37 (d) At the conclusion of the hearing described in subsection (c) and
 38 after consideration of the bail guidelines described in section 3.8 of this
 39 chapter, the court shall consider whether the factors described in
 40 section 4 of this chapter warrant the imposition of a bail amount that
 41 exceeds court or county guidelines, if applicable.

42 SECTION 3. IC 35-33-8-3.7 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2022]: Sec. 3.7. (a) This section applies only to a violent arrestee.

3 (b) The following definitions apply throughout this section:

4 (1) "Crime of violence" means an offense:

5 (A) described in IC 35-50-1-2(a); and

6 (B) that is a Level 1, Level 2, Level 3, Level 4, or Level 5
7 felony.

8 (2) "Default bail schedule" means the following minimum bail
9 amounts, based on the most serious charged crime:

10 (A) For murder, no bail.

11 (B) For a Class A felony, Level 1 felony, or Level 2 felony,
12 fifty thousand dollars (\$50,000).

13 (C) For a Class B felony, Level 3 felony, or Level 4 felony,
14 twenty thousand dollars (\$20,000).

15 (D) For a Class C felony or Level 5 felony that is a crime of
16 domestic violence, twenty-five thousand dollars (\$25,000).

17 (E) For a Class C felony or Level 5 felony that is not a
18 crime of domestic violence, seven thousand five hundred
19 dollars (\$7,500).

20 (F) For a Class D felony or Level 6 felony, five hundred
21 dollars (\$500).

22 (3) "Minimum bail amount" means:

23 (A) if:

24 (i) the court has adopted a bail schedule, the bail amount
25 prescribed for a particular offense in the court's bail
26 schedule; or

27 (ii) the court has not adopted a bail schedule, the default
28 bail schedule; or

29 (B) if the violent arrestee has a prior conviction for a crime
30 of violence, twice the bail amount prescribed for a
31 particular offense in the court's bail schedule or default
32 bail schedule (whichever applies) for a violent arrestee
33 without a prior conviction for a crime of violence;

34 as applicable.

35 (4) "Repeat violent arrestee" means a person arrested for or
36 charged with a crime of violence who has a prior conviction
37 for a crime of violence.

38 (5) "Violent arrestee" means a person arrested for or charged
39 with a crime of violence.

40 (c) A violent arrestee may not be released pursuant to a bail
41 schedule, and may only be released on bail set individually by the
42 court following a hearing held in open court. Before releasing a



1 **violent arrestee on bail, the court must review the probable cause**
 2 **affidavit or arrest warrant.**

3 **(d) A repeat violent arrestee may not be released pursuant to a**
 4 **bail schedule, and may only be released on bail set individually by**
 5 **the court following a hearing held in open court. Before releasing**
 6 **a repeat violent arrestee on bail, the court must review the**
 7 **probable cause affidavit or arrest warrant. If a court releases a**
 8 **repeat violent arrestee on bail, the court must:**

9 **(1) impose bail in an amount that equals or exceeds the**
 10 **minimum bail amount for the repeat violent arrestee's most**
 11 **serious offense; and**

12 **(2) require that the repeat violent arrestee pay money bail for**
 13 **that portion of the bail that equals the minimum bail amount**
 14 **by paying a cash deposit equal to the minimum bail.**

15 **(e) A repeat violent arrestee may not use a surety bond to pay**
 16 **money bail required under this section for that portion of the bail**
 17 **that equals the minimum bail amount.**

18 **(f) A third party may not pay money bail imposed under this**
 19 **section on behalf of a repeat violent arrestee (even for the portion**
 20 **that exceeds the minimum bail amount) unless the third party is a**
 21 **close relative (as defined in IC 33-23-11-2) of the repeat violent**
 22 **arrestee.**

23 SECTION 4. IC 35-33-8-3.8, AS ADDED BY P.L.187-2017,
 24 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2022]: Sec. 3.8. (a) A court shall consider the results of the
 26 Indiana pretrial risk assessment system (if available) before setting or
 27 modifying bail for an arrestee.

28 (b) If the court finds, based on the results of the Indiana pretrial risk
 29 assessment system (if available) and other relevant factors, that an
 30 arrestee does not present a substantial risk of flight or danger to the
 31 arrestee or others ~~the court shall consider releasing that cannot be~~
 32 **addressed with a nonmonetary condition or combination of**
 33 **conditions of release, the court shall release** the arrestee without
 34 money bail or surety, subject to restrictions and conditions as
 35 determined by the court, unless one (1) or more of the following apply:

36 (1) The arrestee is charged with ~~murder~~ **a crime of violence (as**
 37 **defined in section 3.7 of this chapter)** or treason.

38 (2) The arrestee is on pretrial release not related to the incident
 39 that is the basis for the present arrest.

40 (3) The arrestee is on probation, parole, or other community
 41 supervision.

42 The court is not required to administer an assessment before releasing



1 an arrestee if administering the assessment will delay the arrestee's
 2 release. **Any nonmonetary conditions of release imposed by the**
 3 **court must be the least restrictive conditions or combination of**
 4 **conditions necessary to reasonably address the risk of flight or the**
 5 **risk of danger to others. If the court imposes electronic monitoring,**
 6 **GPS monitoring, or home detention, the court shall set forth in the**
 7 **record the basis for imposing this condition. The court shall refer**
 8 **all people to voluntary community supportive services meant to**
 9 **address transportation, housing, and behavioral health needs.**

10 SECTION 5. IC 35-33-8-3.9, AS ADDED BY P.L.187-2017,
 11 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2022]: Sec. 3.9. (a) If the court determines that an arrestee is
 13 to be held subject to money bail, the court is authorized to determine
 14 the amount of bail and, **except as provided in section 3.7 of this**
 15 **chapter**, whether the bail may be satisfied by surety bond or cash
 16 deposit.

17 (b) **Except as provided in section 3.7 of this chapter**, the court
 18 may set and accept a partial cash payment of the bail upon conditions
 19 set by the court, including the arrestee's agreement (and the agreement
 20 of a person who makes a cash payment on behalf of an arrestee, if
 21 applicable) that all court costs, fees, and expenses associated with the
 22 proceeding shall be paid from the partial payment.

23 (c) If the court authorizes the acceptance of a cash partial payment
 24 to satisfy bail, the court shall first secure the arrestee's agreement (and
 25 the agreement of a person who makes a cash payment on behalf of an
 26 arrestee, if applicable) that, in the event of failure to appear as
 27 scheduled, the deposit shall be forfeited and the arrestee must also pay
 28 any additional amounts needed to satisfy the full amount of bail plus
 29 associated court costs, fees, and expenses.

30 SECTION 6. IC 35-33-8-4, AS AMENDED BY P.L.187-2017,
 31 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2022]: Sec. 4. (a) The court shall order the amount in which
 33 a person charged by an indictment or information is to be held to bail,
 34 and the clerk shall enter the order on the order book and indorse the
 35 amount on each warrant when issued. If no order fixing the amount of
 36 bail has been made, the sheriff shall present the warrant to the judge of
 37 an appropriate court of criminal jurisdiction, and the judge shall
 38 indorse on the warrant the amount of bail.

39 (b) **Bail may not be set higher than that amount reasonably required**
 40 **to assure the defendant's appearance in court or to assure the physical**
 41 **safety of another person or the community if the court finds by clear**
 42 **and convincing evidence that the defendant poses a risk to the physical**



1 safety of another person or the community.

2 (b) In setting and accepting an amount of bail, the judicial officer
3 shall consider the bail guidelines described in ~~section 3.8~~ **sections 3.7,**
4 **3.8, and 5** of this chapter and take into account all facts relevant to the
5 risk of nonappearance, **the risk of danger to another person, and the**
6 **risk of danger to the community**, including:

7 (1) the length and character of the defendant's residence in the
8 community;

9 (2) the defendant's employment status and history and the
10 defendant's ability to give bail;

11 (3) the defendant's family ties and relationships;

12 (4) the defendant's character, reputation, habits, and mental
13 condition;

14 (5) the defendant's criminal or juvenile record, insofar as it
15 demonstrates instability and a disdain for the court's authority to
16 bring the defendant to trial;

17 (6) the defendant's previous record in not responding to court
18 appearances when required or with respect to flight to avoid
19 criminal prosecution;

20 (7) the nature and gravity of the offense and the potential penalty
21 faced, insofar as these factors are relevant to the risk of
22 nonappearance;

23 (8) the source of funds or property to be used to post bail or to pay
24 a premium, insofar as it affects the risk of nonappearance;

25 (9) that the defendant is a foreign national who is unlawfully
26 present in the United States under federal immigration law; and

27 (10) any other factors, including any evidence of instability and
28 a disdain for authority, which might indicate that the defendant
29 might not recognize and adhere to the authority of the court to
30 bring the defendant to trial.

31 SECTION 7. IC 35-33-8-5, AS AMENDED BY P.L.111-2017,
32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2022]: Sec. 5. (a) Upon a showing of good cause, the state or
34 the defendant may be granted an alteration or revocation of bail by
35 application to the court before which the proceeding is pending. In
36 reviewing a motion for alteration or revocation of bail, credible hearsay
37 evidence is admissible to establish good cause.

38 (b) When the state presents additional:

39 (1) evidence relevant to a high risk of nonappearance, based on
40 the factors set forth in section 4(b) of this chapter; or

41 (2) clear and convincing evidence:

42 (A) of the factors described in IC 35-40-6-6(1)(A) and



- 1 IC 35-40-6-6(1)(B); or
 2 (B) that the defendant otherwise poses a risk to the physical
 3 safety of another person or the community;
 4 the court may increase bail. If the additional evidence presented by the
 5 state is DNA evidence tending to show that the defendant committed
 6 additional crimes that were not considered at the time the defendant
 7 was admitted to bail, the court may increase or revoke bail.
- 8 (c) When the defendant presents additional evidence of substantial
 9 mitigating factors, based on the factors set forth in section 4(b) of this
 10 chapter, which reasonably suggests that the defendant recognizes the
 11 court's authority to bring the defendant to trial, the court may reduce
 12 bail. However, the court may not reduce bail if the court finds by clear
 13 and convincing evidence that the factors described in
 14 IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant
 15 otherwise poses a risk to the physical safety of another person or the
 16 community.
- 17 (d) The court may revoke bail or an order for release on personal
 18 recognizance upon clear and convincing proof by the state that:
- 19 (1) while admitted to bail the defendant:
- 20 (A) or the defendant's agent threatened or intimidated a victim,
 21 prospective witnesses, or jurors concerning the pending
 22 criminal proceeding or any other matter;
 23 (B) or the defendant's agent attempted to conceal or destroy
 24 evidence relating to the pending criminal proceeding;
 25 (C) violated any condition of the defendant's current release
 26 order;
 27 (D) failed to appear before the court as ordered at any critical
 28 stage of the proceedings; or
 29 (E) committed a felony or a Class A misdemeanor that
 30 demonstrates instability and a disdain for the court's authority
 31 to bring the defendant to trial;
- 32 (2) the factors described in IC 35-40-6-6(1)(A) and
 33 IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a
 34 risk to the physical safety of another person or the community; or
 35 (3) a combination of the factors described in subdivisions (1) and
 36 (2) exists.
- 37 **(e) The court shall revoke bail or an order for release on
 38 personal recognizance upon proof by the state that:**
- 39 **(1) the defendant is charged with a crime of violence (as
 40 defined in section 3.7 of this chapter; and**
 41 **(2) while admitted to bail, the defendant committed a felony.**
 42 **If the court revokes a defendant's bail under this subsection, the**



1 court may not release the defendant on bail until the final
2 disposition of the defendant's case under subdivision (1).

3 (f) Bail for the new felony offense committed by the defendant
4 described in subsection (e) must be set individually by the court
5 following a hearing held in open court. In addition, if the new
6 felony offense is a crime of violence (as defined in section 3.7 of this
7 chapter) the court shall:

8 (1) set the defendant's bail in an amount that equals or
9 exceeds the minimum bail required for a violent arrestee with
10 a prior conviction for a crime of violence under section
11 3.7(b)(3)(B) of this chapter;

12 (2) require that the defendant pay money bail for that portion
13 of the bail that equals the minimum bail required for a violent
14 arrestee with a prior conviction for a crime of violence under
15 section 3.7(b)(3)(B) of this chapter by paying a cash deposit
16 equal to the minimum bail;

17 (3) prohibit the defendant from using a surety bond to pay
18 money bail required under this subsection for that portion of
19 the bail that equals the minimum bail amount; and

20 (4) prohibit a third party from paying money bail imposed
21 under this subsection on behalf of the defendant (even for the
22 portion that exceeds the minimum bail amount), unless the
23 third party is a close relative (as defined in IC 33-23-11-2).

24 Nothing in this subsection authorizes the release of the defendant
25 until the final disposition of the defendant's initial case described
26 in subsection (e)(1).

27 SECTION 8. IC 35-40-5-5 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. (a) A victim has the
29 right to be heard at any proceeding involving sentencing, a
30 postconviction release decision, or a pre-conviction release decision
31 under a forensic diversion program.

32 (b) A victim has the right to notice and to be heard at a
33 proceeding to set bail for a:

34 (1) sexually violent predator defendant under IC 35-33-8-3.5;

35 (2) child molesting defendant under IC 35-33-8-3.5;

36 (3) child solicitation defendant under IC 35-33-8-3.5; or

37 (4) violent arrestee under IC 35-33-3-3.7.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 6, 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 4, delete line 42, begin a new paragraph and insert:

"SECTION 3. IC 35-33-8-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 3.7. (a) This section applies only to a violent arrestee.**

(b) The following definitions apply throughout this section:

(1) "Crime of violence" means an offense:

(A) described in IC 35-50-1-2(a); and

(B) that is a Level 1, Level 2, Level 3, Level 4, or Level 5 felony.

(2) "Default bail schedule" means the following minimum bail amounts, based on the most serious charged crime:

(A) For murder, no bail.

(B) For a Class A felony, Level 1 felony, or Level 2 felony, fifty thousand dollars (\$50,000).

(C) For a Class B felony, Level 3 felony, or Level 4 felony, twenty thousand dollars (\$20,000).

(D) For a Class C felony or Level 5 felony that is a crime of domestic violence, twenty-five thousand dollars (\$25,000).

(E) For a Class C felony or Level 5 felony that is not a crime of domestic violence, seven thousand five hundred dollars (\$7,500).

(F) For a Class D felony or Level 6 felony, five hundred dollars (\$500).

(3) "Minimum bail amount" means:

(A) if:

(i) the court has adopted a bail schedule, the bail amount prescribed for a particular offense in the court's bail schedule; or

(ii) the court has not adopted a bail schedule, the default bail schedule; or

(B) if the violent arrestee has a prior conviction for a crime of violence, twice the bail amount prescribed for a particular offense in the court's bail schedule or default bail schedule (whichever applies) for a violent arrestee without a prior conviction for a crime of violence;



as applicable.

(4) "Repeat violent arrestee" means a person arrested for or charged with a crime of violence who has a prior conviction for a crime of violence.

(5) "Violent arrestee" means a person arrested for or charged with a crime of violence.

(c) A violent arrestee may not be released pursuant to a bail schedule, and may only be released on bail set individually by the court following a hearing held in open court. Before releasing a violent arrestee on bail, the court must review the probable cause affidavit or arrest warrant.

(d) A repeat violent arrestee may not be released pursuant to a bail schedule, and may only be released on bail set individually by the court following a hearing held in open court. Before releasing a repeat violent arrestee on bail, the court must review the probable cause affidavit or arrest warrant. If a court releases a repeat violent arrestee on bail, the court must:

(1) impose bail in an amount that equals or exceeds the minimum bail amount for the repeat violent arrestee's most serious offense; and

(2) require that the repeat violent arrestee pay money bail for that portion of the bail that equals the minimum bail amount by paying a cash deposit equal to the minimum bail.

(e) A repeat violent arrestee may not use a surety bond to pay money bail required under this section for that portion of the bail that equals the minimum bail amount.

(f) A third party may not pay money bail imposed under this section on behalf of a repeat violent arrestee (even for the portion that exceeds the minimum bail amount) unless the third party is a close relative (as defined in IC 33-23-11-2) of the repeat violent arrestee."

Page 5, delete lines 1 through 35.

Page 6, line 2, after "others" delete ",".

Page 6, line 2, strike "the court shall consider releasing" and insert "that cannot be addressed with a nonmonetary condition or combination of conditions of release, the court shall release".

Page 6, line 6, delete "IC 35-50-1-2(a))" and insert "section 3.7 of this chapter)".

Page 6, line 13, after "release." insert "Any nonmonetary conditions of release imposed by the court must be the least restrictive conditions or combination of conditions necessary to reasonably address the risk of flight or the risk of danger to others.



If the court imposes electronic monitoring, GPS monitoring, or home detention, the court shall set forth in the record the basis for imposing this condition. The court shall refer all people to voluntary community supportive services meant to address transportation, housing, and behavioral health needs."

Page 7, delete lines 1 through 9, begin a new paragraph and insert:

"(b) Bail may not be set higher than that amount reasonably required to assure the defendant's appearance in court or to assure the physical safety of another person or the community if the court finds by clear and convincing evidence that the defendant poses a risk to the physical safety of another person or the community:

(b) In setting and accepting an amount of bail, the judicial officer shall consider the bail guidelines described in ~~section 3.8~~ **sections 3.7, 3.8, and 5** of this chapter and take into account all facts relevant to the risk of nonappearance, **the risk of danger to another person, and the risk of danger to the community**, including:"

Page 7, delete lines 34 through 42, begin a new paragraph and insert:

"SECTION 8. IC 35-33-8-5, AS AMENDED BY P.L.111-2017, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. (a) Upon a showing of good cause, the state or the defendant may be granted an alteration or revocation of bail by application to the court before which the proceeding is pending. In reviewing a motion for alteration or revocation of bail, credible hearsay evidence is admissible to establish good cause.

(b) When the state presents additional:

(1) evidence relevant to a high risk of nonappearance, based on the factors set forth in section 4(b) of this chapter; or

(2) clear and convincing evidence:

(A) of the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B); or

(B) that the defendant otherwise poses a risk to the physical safety of another person or the community;

the court may increase bail. If the additional evidence presented by the state is DNA evidence tending to show that the defendant committed additional crimes that were not considered at the time the defendant was admitted to bail, the court may increase or revoke bail.

(c) When the defendant presents additional evidence of substantial mitigating factors, based on the factors set forth in section 4(b) of this chapter, which reasonably suggests that the defendant recognizes the court's authority to bring the defendant to trial, the court may reduce bail. However, the court may not reduce bail if the court finds by clear



and convincing evidence that the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a risk to the physical safety of another person or the community.

(d) The court may revoke bail or an order for release on personal recognizance upon clear and convincing proof by the state that:

- (1) while admitted to bail the defendant:
 - (A) or the defendant's agent threatened or intimidated a victim, prospective witnesses, or jurors concerning the pending criminal proceeding or any other matter;
 - (B) or the defendant's agent attempted to conceal or destroy evidence relating to the pending criminal proceeding;
 - (C) violated any condition of the defendant's current release order;
 - (D) failed to appear before the court as ordered at any critical stage of the proceedings; or
 - (E) committed a felony or a Class A misdemeanor that demonstrates instability and a disdain for the court's authority to bring the defendant to trial;
- (2) the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a risk to the physical safety of another person or the community; or
- (3) a combination of the factors described in subdivisions (1) and (2) exists.

(e) The court shall revoke bail or an order for release on personal recognizance upon proof by the state that:

- (1) the defendant is charged with a crime of violence (as defined in section 3.7 of this chapter; and**
- (2) while admitted to bail, the defendant committed a felony.**

If the court revokes a defendant's bail under this subsection, the court may not release the defendant on bail until the final disposition of the defendant's case under subdivision (1).

(f) Bail for the new felony offense committed by the defendant described in subsection (e) must be set individually by the court following a hearing held in open court. In addition, if the new felony offense is a crime of violence (as defined in section 3.7 of this chapter) the court shall:

- (1) set the defendant's bail in an amount that equals or exceeds the minimum bail required for a violent arrestee with a prior conviction for a crime of violence under section 3.7(b)(3)(B) of this chapter;**
- (2) require that the defendant pay money bail for that portion**



of the bail that equals the minimum bail required for a violent arrestee with a prior conviction for a crime of violence under section 3.7(b)(3)(B) of this chapter by paying a cash deposit equal to the minimum bail;

(3) prohibit the defendant from using a surety bond to pay money bail required under this subsection for that portion of the bail that equals the minimum bail amount; and

(4) prohibit a third party from paying money bail imposed under this subsection on behalf of the defendant (even for the portion that exceeds the minimum bail amount), unless the third party is a close relative (as defined in IC 33-23-11-2).

Nothing in this subsection authorizes the release of the defendant until the final disposition of the defendant's initial case described in subsection (e)(1).

SECTION 9. IC 35-40-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. (a) A victim has the right to be heard at any proceeding involving sentencing, a postconviction release decision, or a pre-conviction release decision under a forensic diversion program.

(b) A victim has the right to notice and to be heard at a proceeding to set bail for a:

(1) sexually violent predator defendant under IC 35-33-8-3.5;

(2) child molesting defendant under IC 35-33-8-3.5;

(3) child solicitation defendant under IC 35-33-8-3.5; or

(4) violent arrestee under IC 35-33-3-3.7."

Delete page 8.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 6 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 2.

