

SENATE BILL No. 291

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; IC 35-35-1-2; IC 35-38-1-17.5.

Synopsis: Compassionate release. Allows certain convicted persons that have a chronic medical condition or are terminally ill or gravely disabled to file a petition for sentence modification, without the consent of the prosecuting attorney. Defines "chronic medical condition" and "terminally ill or gravely disabled" for purposes of filing a petition for sentence modification. Specifies that a court may not, without the consent of the prosecuting attorney, reduce or suspend a convicted person's sentence: (1) that was not authorized by a plea agreement; or (2) that is below the sentence that the court was authorized to impose at the time of sentencing. Provides certain criteria that the court must consider when ruling on a petition for sentence modification. Allows the court to grant or deny a petitioner's request for sentence modification, summarily dismiss the petition, or hold a hearing.

Effective: July 1, 2024.

Pol Jr.

January 16, 2024, read first time and referred to Committee on Corrections and Criminal Law.



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.

SENATE BILL No. 291

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 35-31.5-2-40.6 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2024]: **Sec. 40.6. "Chronic medical**
4 **condition", for purposes of IC 35-38-1-17.5, has the meaning set**
5 **forth in IC 35-38-1-17.5.**

6 SECTION 2. IC 35-31.5-2-328.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2024]: **Sec. 328.5. "Terminally ill or gravely**
9 **disabled", for purposes of IC 35-38-1-17.5, has the meaning set**
10 **forth in IC 35-38-1-17.5.**

11 SECTION 3. IC 35-35-1-2, AS AMENDED BY P.L.45-2018,
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2024]: Sec. 2. (a) The court shall not accept a plea of guilty or
14 guilty but mentally ill at the time of the crime without first determining
15 that the defendant:

- 16 (1) understands the nature of the charge against the defendant;
- 17 (2) has been informed that by the defendant's plea the defendant



1 waives the defendant's rights to:

2 (A) a public and speedy trial by jury;

3 (B) confront and cross-examine the witnesses against the
4 defendant;

5 (C) have compulsory process for obtaining witnesses in the
6 defendant's favor; and

7 (D) require the state to prove the defendant's guilt beyond a
8 reasonable doubt at a trial at which the defendant may not be
9 compelled to testify against himself or herself;

10 (3) has been informed of the maximum possible sentence and
11 minimum sentence for the crime charged and any possible
12 increased sentence by reason of the fact of a prior conviction or
13 convictions, and any possibility of the imposition of consecutive
14 sentences;

15 (4) has been informed that the person will lose the right to possess
16 a firearm if the person is convicted of a crime of domestic
17 violence (IC 35-31.5-2-78); and

18 (5) has been informed that if:

19 (A) there is a plea agreement as defined by IC 35-31.5-2-236;
20 and

21 (B) the court accepts the plea;

22 the court is bound by the terms of the plea agreement at the time
23 of sentencing and with respect to sentence modification under
24 IC 35-38-1-17 or IC 35-38-1-17.5.

25 (b) A defendant in a misdemeanor case may waive the rights under
26 subsection (a) by signing a written waiver.

27 (c) Any variance from the requirements of this section that does not
28 violate a constitutional right of the defendant is not a basis for setting
29 aside a plea of guilty.

30 SECTION 4. IC 35-38-1-17.5 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2024]: **Sec. 17.5. (a) This section does not**
33 **apply to a credit restricted felon.**

34 **(b) The following definitions apply throughout this section:**

35 **(1) "Chronic medical condition" means a person has received**
36 **a medical diagnosis that is related to the aging process, has**
37 **deteriorating mental or physical health that has substantially**
38 **diminished the person's ability to function in a correctional**
39 **facility, and the medical treatment received within the**
40 **correctional facility is not providing a substantial**
41 **improvement to the person's condition.**

42 **(2) "Terminally ill or gravely disabled" means:**



- 1 (A) a physician has diagnosed the person with a terminal
 2 illness with a life expectancy of eighteen (18) months or
 3 less;
 4 (B) the person has a disease or condition with an end of life
 5 trajectory, including but not limited to:
 6 (i) metastatic solid tumor cancer;
 7 (ii) amyotrophic lateral sclerosis (ALS);
 8 (iii) end stage organ disease; and
 9 (iv) advanced end stage dementia with an end of life
 10 trajectory; or
 11 (C) the person is unable to complete basic activities of daily
 12 living, has limited ability for self-care, and is confined to a
 13 bed or chair for more than fifty percent (50%) of the
 14 person's waking hours.
- 15 (c) Notwithstanding section 17 of this chapter, a convicted
 16 person may file a petition for sentence modification, without the
 17 consent of the prosecuting attorney, under this section if one (1) of
 18 the following applies:
- 19 (1) The person is terminally ill or gravely disabled.
 20 (2) The person is at least sixty-five (65) years of age, is serving
 21 a sentence for an offense committed before the person was
 22 sixty (60) years of age, and the person has served:
- 23 (A) at least:
 24 (i) ten (10) years in the custody of the department of
 25 correction for the current sentence; or
 26 (ii) fifty percent (50%) of the sentence imposed;
 27 whichever is less, if the person has a chronic medical
 28 condition; or
 29 (B) at least:
 30 (i) ten (10) years in the custody of the department of
 31 correction; or
 32 (ii) seventy-five percent (75%) of the sentence imposed;
 33 whichever is less.
- 34 The time periods described in this subsection are computed on the
 35 basis of time actually served and do not include any reduction
 36 applied for good time credit or educational credit time.
- 37 (d) A convicted person may file a petition under this section
 38 even if the person has previously filed a petition for sentence
 39 modification under section 17 of this chapter.
- 40 (e) A convicted person may only petition for a modification one
 41 (1) time under this section without the consent of the prosecuting
 42 attorney, unless the person presents medical evidence in the



1 petition that the person's medical condition has substantially
2 deteriorated since the person's last petition was filed.

3 (f) A court may not, without the consent of the prosecuting
4 attorney, reduce or suspend the convicted person's sentence below
5 the sentence that the court was authorized to impose at the time of
6 sentencing.

7 (g) If the convicted person was sentenced under the terms of a
8 plea agreement, the court may not, without the consent of the
9 prosecuting attorney, reduce or suspend the sentence and impose
10 a sentence not authorized by the plea agreement. In making this
11 determination, the court must:

12 (1) consider the person's reentry plans, including evidence
13 that the person will:

14 (A) have suitable living quarters; and

15 (B) receive necessary medical care or treatment; and

16 (2) incorporate its reasons in the record.

17 (h) The court:

18 (1) may grant the request to reduce or suspend the convicted
19 person's sentence;

20 (2) may summarily dismiss the petition if it does not meet the
21 requirements of this section; or

22 (3) shall hold a hearing.

23 However, if the petitioner and the prosecuting attorney file an
24 agreement concerning a reduction or suspension of the petitioner's
25 sentence, the court may issue a court order approving the
26 agreement without a hearing.

