



January 25, 2019

SENATE BILL No. 319

DIGEST OF SB 319 (Updated January 22, 2019 12:44 pm - DI 106)

Citations Affected: IC 35-38.

Synopsis: Sentencing after probation revocation. Permits a person convicted of a Level 6 felony to be committed to the department of correction (DOC) if: (1) the person's probation, parole, or community corrections is revoked due to commission of a new criminal offense; (2) the person has been charged with the new criminal offense; and (3) commitment to the DOC is due to the revocation.

Effective: July 1, 2019.

**Head, Koch, Sandlin, Busch,
Randolph Lonnie M, Young M**

January 7, 2019, read first time and referred to Committee on Corrections and Criminal Law.
January 24, 2019, amended, reported favorably — Do Pass.

SB 319—LS 7051/DI 123



January 25, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 319

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 35-38-3-3, AS AMENDED BY P.L.184-2018,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 3. (a) Except as provided by subsection (b), a
4 person convicted of a misdemeanor may not be committed to the
5 department of correction.
6 (b) Upon a request from the sheriff, the commissioner may agree to
7 accept custody of a misdemeanor:
8 (1) if placement in the county jail:
9 (A) places the inmate in danger of serious bodily injury or
10 death; or
11 (B) represents a substantial threat to the safety of others;
12 (2) for other good cause shown; or
13 (3) if a person has more than five hundred forty-seven (547) days
14 remaining before the person's earliest release date as a result of:
15 (A) consecutive misdemeanor sentences; or
16 (B) a sentencing enhancement applied to a misdemeanor
17 sentence.

SB 319—LS 7051/DI 123



1 (c) After June 30, 2014, and before January 1, 2016, a court may not
 2 commit a person convicted of a Level 6 felony to the department of
 3 correction if the person's earliest possible release date is less than
 4 ninety-one (91) days from the date of sentencing, unless the
 5 commitment is due to the person violating a condition of probation,
 6 parole, or community corrections by committing a new criminal
 7 offense.

8 (d) After December 31, 2015, a court may not commit a person
 9 convicted of a Level 6 felony to the department of correction unless:

10 (1) **the person has been charged with a new criminal offense**
 11 **and** the commitment is due to the revocation of the person's
 12 **sentence placement** for violating probation, parole, or community
 13 **corrections by committing the new criminal offense; and the**
 14 **revocation of the person's sentence is due to a new criminal**
 15 **offense; or**

16 (2) the person:

17 (A) is convicted of a Level 6 felony and the sentence for that
 18 felony is ordered to be served consecutively to the sentence for
 19 another felony;

20 (B) is convicted of a Level 6 felony that is enhanced by an
 21 additional fixed term under IC 35-50-2-8 through
 22 IC 35-50-2-16; or

23 (C) has received an enhanced sentence under IC 9-30-15.5-2;
 24 and the person's earliest possible release date is more than three
 25 hundred sixty-five (365) days after the date of sentencing.

26 A person who may not be committed to the department of correction
 27 may be placed on probation, committed to the county jail, or placed in
 28 community corrections for assignment to an appropriate community
 29 corrections program.

30 (e) Subject to appropriation from the general assembly, a sheriff is
 31 entitled to a per diem and medical expense reimbursement from the
 32 department of correction for the cost of incarcerating a person
 33 described in subsections (c) and (d) in a county jail. The sheriff is
 34 entitled to a per diem and medical expense reimbursement only for the
 35 time that the person described in subsections (c) and (d) is incarcerated
 36 in the county jail.

37 (f) Per diem and medical expense reimbursements received by a
 38 county under this section or received by a county from the state under
 39 any other law for the purpose of reimbursing sheriffs for the cost of
 40 incarcerating in county jails persons convicted of felonies:

41 (1) shall be deposited in the county general fund; and

42 (2) upon appropriation by the county fiscal body, shall be used by



1 the county sheriff only for the purposes of paying the costs of
2 incarcerating in the county jail persons described in subsections
3 (c) and (d) or other persons convicted of felonies.
4 (g) The county auditor shall semiannually provide to the county
5 fiscal body and the county sheriff an itemized record of the per diem
6 and medical expense reimbursements received by the county under this
7 section or under any other law for the purpose of reimbursing sheriffs
8 for the cost of incarcerating persons convicted of felonies.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 319, 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 2, line 10, after "(1)" insert "**the person has been charged with a new criminal offense and**".

Page 2, line 11, strike "sentence" and insert "**placement**".

Page 2, line 12, delete ";" and insert "**by committing the new criminal offense;**".

and when so amended that said bill do pass.

(Reference is to SB 319 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 0.

