

SENATE BILL No. 342

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-33-11-1; IC 35-38-3-3.

Synopsis: County jail issues. Provides that if: (1) a motion is filed alleging that an inmate in a county jail is an individual with a serious mental illness or has a medical condition or illness for which the department of correction (DOC) would be able to provide better treatment or treatment at a lower cost or in a more efficient manner; and (2) the court finds that the condition or conditions exist; the court shall order the sheriff to transfer the inmate to another county jail or to a DOC facility designated by the commissioner of the DOC as suitable for the confinement of that prisoner. (Under current law, such a motion may also be filed alleging that an inmate is in danger of serious bodily injury or death, or represents a substantial threat to the safety of others.) Provides that such a motion may also be filed concerning an inmate in a county jail who has been committed to the county jail upon conviction for a felony or misdemeanor. (Under current law, such a motion may be filed concerning only an inmate in a county jail awaiting trial.) Provides that per diem and medical expense reimbursements received by a county for the cost of incarcerating persons convicted of felonies: (1) shall be deposited in the county general fund; and (2) upon appropriation by the county fiscal body, shall be used by the county sheriff only for the purposes of paying the costs of incarcerating persons convicted of felonies. Requires the county auditor to semiannually provide to the county fiscal body and the county sheriff an itemized record of such per diem and medical expense reimbursements received by the county. Provides that the following apply to the per diem and medical expense reimbursement paid by the DOC: (1) The DOC shall collaborate with county sheriffs
(Continued next page)

Effective: July 1, 2018.

Tomes

January 4, 2018, read first time and referred to Committee on Corrections and Criminal Law.



Digest Continued

to create a standard process to provide for the payment of the per diem and medical expense reimbursements. (2) The monthly payment of the per diem and medical expense reimbursements shall be calculated based on information contained in an affidavit submitted by the county sheriff to the DOC. (3) If a county sheriff submits a request for the payment of per diem and medical expense reimbursements and an affidavit containing the information required by the DOC not later than the tenth day of a month, the DOC shall pay the appropriate per diem and medical expense reimbursements to the county not later than the twentieth day of that same month. (4) The per diem and medical expense reimbursements paid by the DOC shall be distributed to the county in which the person for whom the per diem and medical expense reimbursement are paid is incarcerated.



Introduced

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 342

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-33-11-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. **(a)** Upon motion by
 3 the ~~(1)~~ sheriff, ~~(2)~~ prosecuting attorney, ~~(3)~~ defendant or ~~his~~ **the**
 4 **defendant's** counsel, ~~(4)~~ attorney general, or ~~(5)~~ court alleging that an
 5 inmate in a county jail awaiting trial:
 6 **(1)** is in danger of serious bodily injury or death; ~~or~~
 7 **(2)** represents a substantial threat to the safety of others;
 8 **(3) is an individual with a serious mental illness; or**
 9 **(4) has a medical condition or illness for which the**
 10 **department of correction would be able to provide:**
 11 **(A) better treatment; or**
 12 **(B) treatment at a lower cost or in a more efficient**
 13 **manner;**
 14 the court shall determine whether ~~the inmate is in imminent danger of~~
 15 ~~serious bodily injury or death; or represents a substantial threat to the~~



1 safety of others: the condition or conditions alleged in the motion
2 under subdivisions (1) through (4) exist.

3 (b) Upon motion by the sheriff, prosecuting attorney, inmate or
4 the inmate's counsel, attorney general, or court alleging that an
5 inmate in a county jail who has been committed to the county jail
6 upon conviction for a felony or misdemeanor:

7 (1) is in danger of serious bodily injury or death;

8 (2) represents a substantial threat to the safety of others;

9 (3) is an individual with a serious mental illness; or

10 (4) has a medical condition or illness for which the
11 department of correction would be able to provide:

12 (A) better treatment; or

13 (B) treatment at a lower cost or in a more efficient
14 manner;

15 the court shall determine whether the condition or conditions
16 alleged in the motion under subdivisions (1) through (4) exist.

17 (c) If a motion is made under subsection (a) or (b) and the court
18 finds that the inmate is in danger of serious bodily injury or death or
19 represents a substantial threat to the safety of others, it conditions
20 alleged in the motion under subsection (a)(1) through (a)(4) or
21 subsection (b)(1) through (b)(4) (as appropriate) exist, the court
22 shall order the sheriff to transfer the inmate to another county jail or to
23 a facility of the department of correction designated by the
24 commissioner of the department as suitable for the confinement of that
25 prisoner and provided that space is available.

26 (d) For the purpose of this chapter, an inmate is not considered in
27 danger of serious bodily injury or death due to an illness or other
28 medical condition.

29 SECTION 2. IC 35-38-3-3, AS AMENDED BY P.L.7-2017,
30 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2018]: Sec. 3. (a) Except as provided by subsection (b), a
32 person convicted of a misdemeanor may not be committed to the
33 department of correction.

34 (b) Upon a request from the sheriff, the commissioner may agree to
35 accept custody of a misdemeanant:

36 (1) if placement in the county jail:

37 (A) places the inmate in danger of serious bodily injury or
38 death; or

39 (B) represents a substantial threat to the safety of others;

40 (2) for other good cause shown; or

41 (3) if a person has more than five hundred forty-seven (547) days
42 remaining before the person's earliest release date as a result of:



- 1 (A) consecutive misdemeanor sentences; or
 2 (B) a sentencing enhancement applied to a misdemeanor
 3 sentence.
- 4 (c) After June 30, 2014, and before January 1, 2016, a court may not
 5 commit a person convicted of a Level 6 felony to the department of
 6 correction if the person's earliest possible release date is less than
 7 ninety-one (91) days from the date of sentencing, unless the
 8 commitment is due to the person violating a condition of probation,
 9 parole, or community corrections by committing a new criminal
 10 offense.
- 11 (d) After December 31, 2015, a court may not commit a person
 12 convicted of a Level 6 felony to the department of correction unless:
- 13 (1) the commitment is due to the revocation of the person's
 14 sentence for violating probation, parole, or community corrections
 15 and the revocation of the person's sentence is due to a new
 16 criminal offense; or
 17 (2) the person:
- 18 (A) is convicted of a Level 6 felony and the sentence for that
 19 felony is ordered to be served consecutively to the sentence for
 20 another felony;
 21 (B) is convicted of a Level 6 felony that is enhanced by an
 22 additional fixed term under IC 35-50-2-8 through
 23 IC 35-50-2-16; or
 24 (C) has received an enhanced sentence under IC 9-30-15.5-2;
 25 and the person's earliest possible release date is more than three
 26 hundred sixty-five (365) days after the date of sentencing.
- 27 A person who may not be committed to the department of correction
 28 may be placed on probation, committed to the county jail, or placed in
 29 community corrections for assignment to an appropriate community
 30 corrections program.
- 31 (e) After June 30, 2014, and before January 1, 2016, a sheriff is
 32 entitled to a per diem and medical expense reimbursement as described
 33 in P.L.205-2013, SECTION 4 for the cost of incarcerating a person
 34 described in subsections (c) and (d) in a county jail. The sheriff is
 35 entitled to a per diem and medical expense reimbursement only for the
 36 time that the person described in subsections (c) and (d) is incarcerated
 37 in the county jail. The reimbursement:
- 38 (1) shall be reviewed by the budget committee; and
 39 (2) is subject to approval by the budget agency.
- 40 (f) (e) Subject to appropriation from the general assembly, a sheriff
 41 is entitled to a per diem and medical expense reimbursement from the
 42 department of correction for the cost of incarcerating a person



1 described in subsections (c) and (d) in a county jail. The sheriff is
2 entitled to a per diem and medical expense reimbursement only for the
3 time that the person described in subsections (c) and (d) is incarcerated
4 in the county jail.

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

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

10 **(2) upon appropriation by the county fiscal body, shall be used**
11 **by the county sheriff only for the purposes of paying the costs**
12 **of incarcerating in the county jail persons described in**
13 **subsections (c) and (d) or other persons convicted of felonies.**

14 **(g) The county auditor shall semiannually provide to the county**
15 **fiscal body and the county sheriff an itemized record of the per**
16 **diem and medical expense reimbursements received by the county**
17 **under this section or under any other law for the purpose of**
18 **reimbursing sheriffs for the cost of incarcerating persons convicted**
19 **of felonies.**

20 **(h) The following apply to the per diem and medical expense**
21 **reimbursements paid by the department of correction under this**
22 **section or under any other law for the purpose of reimbursing**
23 **county sheriffs for the cost of incarcerating persons convicted of**
24 **felonies:**

25 **(1) The department of correction shall collaborate with**
26 **county sheriffs to create a standard process to provide for the**
27 **payment of the per diem and medical expense**
28 **reimbursements.**

29 **(2) The monthly payment of the per diem and medical expense**
30 **reimbursements shall be calculated based on information**
31 **contained in an affidavit submitted by the county sheriff to**
32 **the department of correction.**

33 **(3) If a county sheriff submits:**

34 **(A) a request for the payment of per diem and medical**
35 **expense reimbursements; and**

36 **(B) an affidavit containing the information required by the**
37 **department of correction;**

38 **not later than the tenth day of a month, the department of**
39 **correction shall pay the appropriate per diem and medical**
40 **expense reimbursements to the county not later than the**
41 **twentieth day of that same month.**

42 **(4) Per diem and medical expense reimbursements paid by the**



1 **department of correction under this section or under any**
2 **other law for the purpose of reimbursing sheriffs for the cost**
3 **of incarcerating persons convicted of felonies shall be**
4 **distributed by the department of correction to the county in**
5 **which the person for whom the per diem and medical expense**
6 **reimbursements are paid is incarcerated.**

