



March 18, 2005

**ENGROSSED
SENATE BILL No. 95**

DIGEST OF SB 95 (Updated March 16, 2005 2:27 pm - DI 69)

Citations Affected: Noncode.

Synopsis: Sentencing policy study committee. Reestablishes the sentencing policy study committee to evaluate sentencing laws and policies for an additional two years. Adds two additional senators and two additional representatives to the committee.

Effective: July 1, 2005.

Long, Bray, Howard

(HOUSE SPONSORS — MESSER, CRAWFORD, FOLEY, KUZMAN)

January 4, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 27, 2005, amended, reported favorably — Do Pass.

January 31, 2005, read second time, ordered engrossed.

February 1, 2005, engrossed.

February 3, 2005, read third time, passed. Yeas 47, nays 2.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Courts and Criminal Code.

March 17, 2005, amended, reported — Do Pass.

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March 18, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 95

A BILL FOR AN ACT concerning criminal law and procedure.

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

- 1 SECTION 1. [EFFECTIVE JULY 1, 2005] (a) As used in this
2 SECTION, "committee" refers to the sentencing policy study
3 committee established by subsection (c).
4 (b) The general assembly finds that a comprehensive study of
5 sentencing laws and policies is desirable in order to:
6 (1) ensure that sentencing laws and policies protect the public
7 safety;
8 (2) establish fairness and uniformity in sentencing laws and
9 policies;
10 (3) determine whether incarceration or alternative sanctions
11 are appropriate for various categories of criminal offenses;
12 and
13 (4) maximize cost effectiveness in the administration of
14 sentencing laws and policies.
15 (c) The sentencing policy study committee is established to
16 evaluate sentencing laws and policies as they relate to:
17 (1) the purposes of the criminal justice and corrections
18 systems;

ES 95—LS 6402/DI 107+



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1 (2) the availability of sentencing options; and
 2 (3) the inmate population in department of correction
 3 facilities.
 4 **If, based on the committee's evaluation under this subsection, the**
 5 **committee determines changes are necessary or appropriate, the**
 6 **committee shall make recommendations to the general assembly**
 7 **for the modification of sentencing laws and policies and for the**
 8 **addition, deletion, or expansion of sentencing options.**
 9 **(d) The committee shall do the following:**
 10 **(1) Evaluate the existing classification of criminal offenses**
 11 **into felony and misdemeanor categories. In determining the**
 12 **proper category for each felony and misdemeanor, the**
 13 **committee shall consider, to the extent they have relevance,**
 14 **the following:**
 15 **(A) The nature and degree of harm likely to be caused by**
 16 **the offense, including whether the offense involves**
 17 **property, irreplaceable property, a person, a number of**
 18 **persons, or a breach of the public trust.**
 19 **(B) The deterrent effect a particular classification may**
 20 **have on the commission of the offense.**
 21 **(C) The current incidence of the offense in Indiana.**
 22 **(D) The rights of the victim.**
 23 **(2) Recommend structures to be used by a sentencing court in**
 24 **determining the most appropriate sentence to be imposed in**
 25 **a criminal case, including any combination of imprisonment,**
 26 **probation, restitution, community service, or house arrest.**
 27 **The committee shall also consider the following:**
 28 **(A) The nature and characteristics of the offense.**
 29 **(B) The severity of the offense in relation to other offenses.**
 30 **(C) The characteristics of the defendant that mitigate or**
 31 **aggravate the seriousness of the criminal conduct and the**
 32 **punishment deserved for that conduct.**
 33 **(D) The defendant's number of prior convictions.**
 34 **(E) The available resources and capacity of the department**
 35 **of correction, local confinement facilities, and community**
 36 **based sanctions.**
 37 **(F) The rights of the victim.**
 38 **The committee shall include with each set of sentencing**
 39 **structures an estimate of the effect of the sentencing**
 40 **structures on the department of correction and local facilities**
 41 **with respect to both fiscal impact and inmate population.**
 42 **(3) Review community corrections and home detention**

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programs for the purpose of:

(A) standardizing procedures and establishing rules for the supervision of home detainees; and

(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based on the following:

(A) A review of existing community corrections programs.

(B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.

(C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.

(D) The identification of necessary changes in state oversight and coordination of community corrections programs.

(E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.

(F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair.

(f) The committee consists of nineteen (19) members appointed as follows:

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- 1 **(1) Four (4) members of the senate, not more than two (2) of**
- 2 **whom may be affiliated with the same political party, to be**
- 3 **appointed by the president pro tempore of the senate.**
- 4 **(2) Four (4) members of the house of representatives, not**
- 5 **more than two (2) of whom may be affiliated with the same**
- 6 **political party, to be appointed by the speaker of the house of**
- 7 **representatives.**
- 8 **(3) The chief justice of the supreme court or the chief justice's**
- 9 **designee.**
- 10 **(4) The commissioner of the department of correction or the**
- 11 **commissioner's designee.**
- 12 **(5) The director of the Indiana criminal justice institute or the**
- 13 **director's designee.**
- 14 **(6) The executive director of the prosecuting attorneys council**
- 15 **of Indiana or the executive director's designee.**
- 16 **(7) The executive director of the public defender council of**
- 17 **Indiana or the executive director's designee.**
- 18 **(8) One (1) person with experience in administering**
- 19 **community corrections programs, appointed by the governor.**
- 20 **(9) One (1) person with experience in administering probation**
- 21 **programs, appointed by the governor.**
- 22 **(10) Two (2) judges who exercise juvenile jurisdiction, not**
- 23 **more than one (1) of whom may be affiliated with the same**
- 24 **political party, to be appointed by the governor.**
- 25 **(11) Two (2) judges who exercise criminal jurisdiction, not**
- 26 **more than one (1) of whom may be affiliated with the same**
- 27 **political party, to be appointed by the governor.**
- 28 **(g) The chairman of the legislative council shall appoint a**
- 29 **legislative member of the committee to serve as chair of the**
- 30 **committee. Whenever there is a new chairman of the legislative**
- 31 **council, the new chairman may remove the chair of the committee**
- 32 **and appoint another chair.**
- 33 **(h) If a legislative member of the committee ceases to be a**
- 34 **member of the chamber from which the member was appointed,**
- 35 **the member also ceases to be a member of the committee.**
- 36 **(i) A legislative member of the committee may be removed at**
- 37 **any time by the appointing authority who appointed the legislative**
- 38 **member.**
- 39 **(j) If a vacancy exists on the committee, the appointing**
- 40 **authority who appointed the former member whose position is**
- 41 **vacant shall appoint an individual to fill the vacancy.**
- 42 **(k) The committee shall submit a final report of the results of its**

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1 study to the legislative council before November 1, 2006. The
 2 report must be in an electronic format under IC 5-14-6.
 3 (l) The Indiana criminal justice institute shall provide staff
 4 support to the committee.
 5 (m) Each member of the committee is entitled to receive the
 6 same per diem, mileage, and travel allowances paid to individuals
 7 who serve as legislative and lay members, respectively, of interim
 8 study committees established by the legislative council.
 9 (n) The affirmative votes of a majority of the members
 10 appointed to the committee are required for the committee to take
 11 action on any measure, including the final report.
 12 (o) Except as otherwise specifically provided by this act, the
 13 committee shall operate under the rules of the legislative council.
 14 All funds necessary to carry out this act shall be paid from
 15 appropriations to the legislative council and legislative services
 16 agency.
 17 (p) This SECTION expires December 31, 2006.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 95, 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 3, line 41, delete "fifteen (15)" and insert "**seventeen (17)**".

Page 4, line 1, delete "Two (2)" and insert "**Three (3)**".

Page 4, line 1, delete "one (1)" and insert "**two (2)**".

Page 4, line 4, delete "Two (2)" and insert "**Three (3)**".

Page 4, line 5, delete "one (1)" and insert "**two (2)**".

and when so amended that said bill do pass.

(Reference is to SB 95 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 11, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 95, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 41, delete "seventeen (17)" and insert "**nineteen (19)**".

Page 4, line 1, delete "Three (3)" and insert "**Four (4)**".

Page 4, line 4, delete "Three (3)" and insert "**Four (4)**".

and when so amended that said bill do pass.

(Reference is to SB 95 as printed January 28, 2005.)

ULMER, Chair

Committee Vote: yeas 11, nays 0.

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