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# SENATE BILL No. 275

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-12-3.7-12.

**Synopsis:** Forensic diversion programs. Provides that if a person fails to participate in or complete a postconviction forensic diversion program, a court may: (1) revoke the person's probation; (2) lift a stay of execution of a nonsuspendible part of the person's sentence; (3) modify the person's sentence; (4) order that the person's suspended sentence be executed; or (5) order the person to serve part of the sentence on work release.

**Effective:** July 1, 2006.

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**Long, Lanane**

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January 9, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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## SENATE BILL No. 275



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 11-12-3.7-12 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) A person is
- 3 eligible to participate in a post-conviction forensic diversion program
- 4 only if the person meets the following criteria:
- 5 (1) The person has a mental illness or an addictive disorder.
- 6 (2) The person has been convicted of an offense that is:
- 7 (A) not a violent offense; and
- 8 (B) not a drug dealing offense.
- 9 (3) The person does not have a conviction for a violent offense in
- 10 the previous ten (10) years.
- 11 (b) If the person has been convicted of an offense that may be
- 12 suspended, the court shall suspend all or a portion of the person's
- 13 sentence, place the person on probation for the suspended portion of
- 14 the person's sentence, and require as a condition of probation that the
- 15 person successfully participate in and successfully complete the
- 16 post-conviction forensic diversion program.
- 17 (c) If the person has been convicted of an offense that is



1 nonsuspendible, the court shall order the execution of the  
 2 nonsuspendible sentence and stay execution of all or part of the  
 3 nonsuspendible portion of the sentence pending the person's successful  
 4 participation in and successful completion of the post-conviction  
 5 forensic diversion program. The court shall treat the suspendible  
 6 portion of a nonsuspendible sentence in accordance with subsection  
 7 (b).

8 (d) The person may be required to participate in the post-conviction  
 9 forensic diversion program for no more than:

10 (1) two (2) years, if the person has been charged with a  
 11 misdemeanor; or

12 (2) three (3) years, if the person has been charged with a felony.

13 The time periods described in this section only limit the amount of time  
 14 a person may spend in the forensic diversion program and do not limit  
 15 the amount of time a person may be placed on probation.

16 (e) If, after considering the report of the forensic diversion program,  
 17 the court determines that a person convicted of an offense that may be  
 18 suspended has failed to successfully participate in the forensic  
 19 diversion program, or has failed to successfully complete the program,  
 20 the court ~~shall~~ **may do any of the following:**

21 (1) Revoke the person's probation. ~~and reimpose~~

22 (2) **Order** all or a portion of the person's suspended sentence to  
 23 **be executed.**

24 (3) **Modify the person's sentence.**

25 (4) **Order the person to serve all or a portion of the person's**  
 26 **suspended sentence in:**

27 (A) **a work release program established by the department**  
 28 **under IC 11-10-8 or IC 11-10-10; or**

29 (B) **a county work release program under IC 11-12-5.**

30 (f) If, after considering the report of the forensic diversion program,  
 31 the court determines that a person convicted of a nonsuspendible  
 32 offense failed to successfully participate in the forensic diversion, or  
 33 failed to successfully complete the program, the court ~~shall~~ may do any  
 34 of the following:

35 (1) Lift its stay of execution of the nonsuspendible portion of the  
 36 sentence and remand the person to the department. ~~of correction;~~

37 (2) **Order the person to serve all or a portion of the**  
 38 **nonsuspendible portion of the sentence that is stayed in:**

39 (A) **a work release program established by the department**  
 40 **under IC 11-10-8 or IC 11-10-10; or**

41 (B) **a county work release program under IC 11-12-5.**

42 (3) **Modify the person's sentence.**

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1        However, if the person failed to successfully participate in the forensic  
2        diversion program, or failed to successfully complete the program  
3        while serving the suspendible portion of a nonsuspendible sentence, the  
4        court ~~shall~~ **may** treat the suspendible portion of the sentence in  
5        accordance with subsection (e).

6        (g) If, after considering the report of the forensic diversion program,  
7        the court determines that a person convicted of a nonsuspendible  
8        offense has successfully completed the program, the court shall waive  
9        execution of the nonsuspendible portion of the person's sentence.

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