



# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1004 be amended to read as follows:

- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 11-12-6.5-4, AS ADDED BY P.L.239-2019,  
4 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2022]: Sec. 4. The costs of incarcerating a confined jail  
6 offender under ~~IC 35-38-3-3(f)~~ **IC 35-38-3-3(e)** shall be used to pay for  
7 the confined jail offender housed in either a regional holding facility or  
8 a county jail."  
9           Page 9, delete lines 38 through 42, begin a new paragraph and  
10 insert:  
11           "SECTION 10. IC 35-38-3-3, AS AMENDED BY P.L.156-2020,  
12 SECTION 129, IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) Except as provided by  
14 subsection (b), a person convicted of a misdemeanor may not be  
15 committed to the department of correction.  
16           (b) Upon a request from the sheriff, the commissioner may agree to  
17 accept custody of a misdemeanorant:  
18           (1) if placement in the county jail:  
19               (A) places the inmate in danger of serious bodily injury or  
20               death; or  
21               (B) represents a substantial threat to the safety of others;  
22           (2) for other good cause shown; or  
23           (3) if a person has more than five hundred forty-seven (547) days  
24 remaining before the person's earliest release date as a result of:  
25               (A) consecutive misdemeanor sentences; or  
26               (B) a sentencing enhancement applied to a misdemeanor  
27 sentence.

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)~~ (c) A court may not commit a person convicted of a Level 6  
 9 felony to the department of correction unless:

10           (1) the commitment is due to the revocation of the person's  
 11 sentence for violating probation, parole, or community corrections  
 12 and the revocation of the person's sentence is due to a new  
 13 criminal offense;

14           (2) the person is convicted of a Level 6 felony that was committed  
 15 in a penal facility; or

16           (3) 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;

23           (C) has received an enhanced sentence under IC 9-30-15.5-2;

24           (D) is a violent offender as defined in IC 35-31.5-2-352(1); or

25           (E) has two (2) prior unrelated felony convictions;

26           and the person's earliest possible release date is more than three  
 27 hundred sixty-five (365) days after the date of sentencing; or

28           (4) the commitment is due to an agreement made between the  
 29 sheriff and the department of correction under IC 11-12-6.5.

30 A person who may not be committed to the department of correction  
 31 may be placed on probation, committed to the county jail, or placed in  
 32 community corrections for assignment to an appropriate community  
 33 corrections program.

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

41           ~~(f)~~ (e) Per diem and medical expense reimbursements received by  
 42 a county under this section or received by a county from the state under  
 43 any other law for the purpose of reimbursing sheriffs for the cost of  
 44 incarcerating in county jails persons convicted of felonies:

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

46           (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 ~~(e)~~ and ~~(d)~~ **subsection (c)** or other persons convicted of felonies.
- 4 ~~(g)~~ **(f)** 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."
- 9 Delete page 10.
- 10 Page 11, delete lines 1 through 31.
- 11 Renumber all SECTIONS consecutively.  
(Reference is to EHB 1004 as printed February 18, 2022.)

---

Senator POL JR.