
DIGEST

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HB 452 Engrossed

2018 Regular Session

Dwight

Abstract: Removes the prohibition against incarceration of a defendant on probation for the lowest tier violations of probation.

Present law provides that each time a defendant on probation for a crime other than a crime of violence or a sex offense violates a condition of his probation, a probation agency is authorized to use administrative sanctions to address a technical violation committed by the defendant.

Present law authorizes the Dept. of Public Safety and Corrections to conduct administrative hearings for the enforcement of sanctions, but such sanctions shall not include incarceration for the lowest-tier violations, including the first positive drug test and the first or second violation for the following:

- (1) Association with known felons or persons involved in criminal activity.
- (2) Changing residence without permission.
- (3) Failure to initially report as required, with certain exceptions.
- (4) Failure to pay restitution for up to three months.
- (5) Failure to report as instructed, with certain exceptions.
- (6) Traveling without permission.
- (7) Occasion of unemployment and failure to seek employment within 90 days.

Proposed law repeals the present law prohibition of incarceration for these lowest-tier violations.

Present law prohibits incarceration for first or second violations of alcohol use or admission, except for defendants convicted of operating a vehicle while intoxicated; defendants convicted of domestic abuse battery committed by one family member or household member against another; defendants convicted of battery by one dating partner against another; or defendants convicted of violation of a protective order issued against the defendant to protect a family member, household member or a dating partner.

Proposed law repeals the present law prohibition of incarceration for these lowest-tier violations.

(Amends C.Cr.P. Art. 899.2(B)(1))