



# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1137 be amended to read as follows:

- 1           Page 2, delete lines 12 through 42, begin a new paragraph and  
2           insert:  
3           "SECTION 2. IC 35-33-8-7, AS AMENDED BY P.L.105-2010,  
4           SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5           JULY 1, 2017]: Sec. 7. (a) If a defendant:  
6               (1) was admitted to bail under section 3.2(a)(2) of this chapter;  
7               and  
8               (2) has failed to appear before the court as ordered;  
9           the court shall, except as provided in subsection (b) or section 8(b) of  
10          this chapter, declare the bond forfeited not earlier than one hundred  
11          twenty (120) days **and not later than three hundred sixty-five (365)**  
12          **days** after the defendant's failure to appear and issue a warrant for the  
13          defendant's arrest.  
14          (b) In a criminal case, if the court having jurisdiction over the  
15          criminal case receives written notice of a pending civil action or  
16          unsatisfied judgment against the criminal defendant arising out of the  
17          same transaction or occurrence forming the basis of the criminal case,  
18          funds deposited with the clerk of the court under section 3.2(a)(2) of  
19          this chapter may not be declared forfeited by the court, and the court  
20          shall order the deposited funds to be held by the clerk. If there is an  
21          entry of final judgment in favor of the plaintiff in the civil action, and  
22          if the deposit and the bond are subject to forfeiture, the criminal court  
23          shall order payment of all or any part of the deposit to the plaintiff in  
24          the action, as is necessary to satisfy the judgment. The court shall then  
25          order the remainder of the deposit, if any, and the bond forfeited.  
26          (c) Any proceedings concerning the bond, or its forfeiture,  
27          judgment, or execution of judgment, shall be held in the court that

1 admitted the defendant to bail.

2 (d) After a bond has been forfeited under subsection (a) or (b), the  
3 clerk shall mail notice of forfeiture to the defendant. In addition, unless  
4 the court finds that there was justification for the defendant's failure to  
5 appear, the court shall immediately enter judgment, without pleadings  
6 and without change of judge or change of venue, against the defendant  
7 for the amount of the bail bond, and the clerk shall record the  
8 judgment.

9 (e) If a bond is forfeited and the court has entered a judgment under  
10 subsection (d), the clerk shall transfer to the state common school fund:

11 (1) any amount remaining on deposit with the court (less the fees  
12 retained by the clerk); and

13 (2) any amount collected in satisfaction of the judgment.

14 (f) The clerk shall return a deposit, less the administrative fee, made  
15 under section 3.2(a)(2) of this chapter to the defendant, if the defendant  
16 appeared at trial and the other critical stages of the legal proceedings."

17 Delete page 3.

18 Renumber all SECTIONS consecutively.

(Reference is to EHB 1137 as printed March 28, 2017.)

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Senator ZAKAS