

February 20, 1998

**ENGROSSED
HOUSE BILL No. 1353**

DIGEST OF HB1353 (Updated February 18, 1998 5:28 pm - DI 76)

Citations Affected: IC 35-41; IC 35-44.

Synopsis: Lawful detention and community corrections. Provides that for purposes of criminal law and procedure, lawful detention includes placement in a community corrections program.

Effective: July 1, 1998.

Crooks, Foley

(SENATE SPONSORS — HUME, WATERMAN)

January 13, 1998, read first time and referred to Committee on Courts and Criminal Code.
January 26, 1998, reported — Do Pass.
January 29, 1998, read second time, amended, ordered engrossed.
January 30, 1998, engrossed.
February 3, 1998, read third time, passed. Yeas 98, nays 1.
SENATE ACTION
February 9, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
February 19, 1998, reported favorably — Do Pass.

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EH 1353—LS 7245/DI 69+



February 20, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

ENGROSSED HOUSE BILL No. 1353

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

- 1 SECTION 1. IC 35-41-1-18 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 18. **(a)** "Lawful
3 detention" means:
4 **(1)** arrest;
5 **(2)** custody following surrender in lieu of arrest;
6 **(3)** detention in a penal facility;
7 **(4)** detention in a facility for custody of persons alleged or found
8 to be delinquent children;
9 **(5)** detention under a law authorizing civil commitment in lieu of
10 criminal proceedings or authorizing such detention while criminal
11 proceedings are held in abeyance;
12 **(6)** detention for extradition or deportation; ~~or~~
13 **(7)** placement in a community corrections program's
14 residential facility or electronic monitoring;
15 **(8)** custody for purposes incident to any of the above including
16 transportation, medical diagnosis or treatment, court appearances,
17 work, or recreation; or

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1 **(9)** any other detention for law enforcement purposes. ~~but it~~
2 **(b) Except as provided in subsection (a)(7), the term** does not
3 include supervision of a person on probation or parole or constraint
4 incidental to release with or without bail.
5 SECTION 2. IC 35-44-3-5 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) A person, **except**
7 **as provided in subsection (b)**, who intentionally flees from lawful
8 detention commits escape, a Class C felony. However, the offense is a
9 Class B felony if, while committing it, the person draws or uses a
10 deadly weapon or inflicts bodily injury on another person.
11 **(b) A person who knowingly or intentionally violates a home**
12 **detention order and intentionally removes an electronic monitoring**
13 **device commits escape, a Class D felony.**
14 ~~(b)~~ **(c)** A person who knowingly or intentionally fails to return to
15 lawful detention following temporary leave granted for a specified
16 purpose or limited period commits failure to return to lawful detention,
17 a Class D felony. However, the offense is a Class C felony if, while
18 committing it, the person draws or uses a deadly weapon or inflicts
19 bodily injury on another person.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1353, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 14, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1353 be amended to read as follows:

Page 1, line 13, delete "program" and insert "**program's residential facility or electronic monitoring**".

Page 2, after line 3, begin a new paragraph and insert:

SECTION 2. IC 35-44-3-5 IS AMENDED TO READ AS FOLLOWS: Sec. 5. (a) A person , **except as provided in subsection (b)**, who intentionally flees from lawful detention commits escape, a Class C felony. However, the offense is a Class B felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person who knowingly or intentionally violates a home detention order and intentionally removes an electronic monitoring device commits escape, a Class D felony.

~~(b)~~ (c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Class D felony. However, the offense is a Class C felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(Reference is to House Bill 1353 as printed January 27, 1998.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred House Bill 1353, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1353 as printed January 30, 1998.)

MEEKS, Chairperson

Committee Vote: Yeas 6, Nays 0.

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