



April 6, 1999

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## ENGROSSED HOUSE BILL No. 1592

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DIGEST OF HB 1592 (Updated April 5, 1999 2:11 pm - DI 51)

**Citations Affected:** IC 5-2; IC 11-13; IC 35-38; IC 35-50.

**Synopsis:** Repeat sexual offender sentencing. Allows a court to sentence a person convicted of a sexual offense to an additional fixed term that is the presumptive sentence for the underlying offense if the state proves beyond a reasonable doubt that the person has accumulated at least two unrelated convictions for sexual offenses. Requires the court to conduct the sentencing hearing. Provides that "sexual offense" refers to rape, criminal deviate conduct, child molesting, child exploitation, vicarious sexual gratification, child  
(Continued next page)

**Effective:** July 1, 1999.

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**Dvorak, Ruppel, Kruse, Lawson L,  
Bardon, Crosby, Atterholt, Tincher**  
(SENATE SPONSORS — ZAKAS, BRAY, ALEXA)

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January 21, 1999, read first time and referred to Committee on Courts and Criminal Code.  
February 22, 1999, amended, reported — Do Pass.  
March 4, 1999, read second time, ordered engrossed. Engrossed.  
March 8, 1999, read third time, passed. Yeas 95, nays 0.  
SENATE ACTION  
March 11, 1999, read first time and referred to Committee on Judiciary.  
April 5, 1999, amended, reported favorably — Do Pass.

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solicitation, child seduction, sexual misconduct with a minor, sexual battery, or incest. Requires information in the sex and violent offender registry to be placed on the Internet, including information concerning an offender's home address. Removes statutory limitations on publishing a home address. Requires certain sex and violent offenders who are on parole to register with local law enforcement authorities. Provides that as a condition of probation or parole, certain sex and violent offenders are prohibited from residing within 1,000 feet of school property unless the offender obtains approval from the court, in the case of probation, or the parole board, in case of parole. Requires a court or parole board that allows an offender to live within 1,000 feet of school property to notify each school within 1,000 feet of the offender's residence.

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April 6, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## ENGROSSED HOUSE BILL No. 1592

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 5-2-12-11 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) The institute  
3 shall make the sex and violent offender registry available on a  
4 computer disk. Each time the registry is updated under section 10 of  
5 this chapter, the institute shall send one (1) paper copy of the sex and  
6 violent offender registry to:
- 7 (1) all school corporations (as defined in IC 20-1-6-1);
  - 8 (2) all nonpublic schools (as defined in IC 20-10.1-1-3);
  - 9 (3) a state agency that licenses individuals who work with  
10 children;
  - 11 (4) the state personnel department to screen individuals who may  
12 be hired to work with children;
  - 13 (5) all child care facilities licensed by or registered in the state of  
14 Indiana; and
  - 15 (6) other entities that:

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1 (A) provide services to children; and

2 (B) request the registry.

3 **(b) The institute shall publish the sex and violent offender**  
 4 **registry on the Internet through the computer gateway**  
 5 **administered by the intelenet commission under IC 5-21-2 and**  
 6 **known as Access Indiana.**

7 (c) A copy of the sex and violent offender registry provided to an  
 8 entity under subdivision (5) or (6) may not or published under this  
 9 section must include the home address of an offender whose name  
 10 appears in the registry.

11 SECTION 2. IC 11-13-3-4 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A condition to  
 13 remaining on parole is that the parolee not commit a crime during the  
 14 period of parole.

15 (b) The parole board may also adopt, under IC 4-22-2, additional  
 16 conditions to remaining on parole and require a parolee to satisfy one  
 17 (1) or more of these conditions. These conditions must be reasonably  
 18 related to the parolee's successful reintegration into the community and  
 19 not unduly restrictive of a fundamental right.

20 (c) If a person is released on parole the parolee shall be given a  
 21 written statement of the conditions of parole. Signed copies of this  
 22 statement shall be:

23 (1) retained by the parolee;

24 (2) forwarded to any person charged with the parolee's  
 25 supervision; and

26 (3) placed in the parolee's master file.

27 (d) The parole board may modify parole conditions if the parolee  
 28 receives notice of that action and had ten (10) days after receipt of the  
 29 notice to express the parolee's views on the proposed modification.  
 30 This subsection does not apply to modification of parole conditions  
 31 after a revocation proceeding under section 10 of this chapter.

32 (e) As a condition of parole, the parole board may require the  
 33 parolee to reside in a particular parole area. In determining a parolee's  
 34 residence requirement, the parole board shall:

35 (1) consider:

36 (A) the residence of the parolee prior to the parolee's  
 37 incarceration; and

38 (B) the parolee's place of employment; and

39 (2) assign the parolee to reside in the county where the parolee  
 40 resided prior to the parolee's incarceration unless assignment on  
 41 this basis would be detrimental to the parolee's successful  
 42 reintegration into the community.



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1 (f) As a condition of parole, the parole board may require the  
2 parolee to:

- 3 (1) periodically undergo a laboratory chemical test (as defined in  
4 IC 14-15-8-1) or series of tests to detect and confirm the presence  
5 of a controlled substance (as defined in IC 35-48-1-9); and  
6 (2) have the results of any test under this subsection reported to  
7 the parole board by the laboratory.

8 The parolee is responsible for any charges resulting from a test  
9 required under this subsection. However, a person's parole may not be  
10 revoked on the basis of the person's inability to pay for a test under this  
11 subsection.

12 (g) As a condition of parole, the parole board:

13 (1) may require a parolee who is an offender (as defined in  
14 IC 5-2-12-4) to:

- 15 ~~(1)~~ (A) participate in a treatment program for sex offenders  
16 approved by the parole board; and  
17 ~~(2)~~ (B) avoid contact with any person who is less than sixteen  
18 (16) years of age unless the parolee:  
19 ~~(A)~~ (i) receives the parole board's approval; or  
20 ~~(B)~~ (ii) successfully completes the treatment program  
21 referred to in subdivision ~~(1)~~; clause (A); and

22 (2) shall:

- 23 (A) require a parolee who is an offender (as defined in  
24 IC 5-2-12-4) to register with a local law enforcement  
25 authority under IC 5-2-12-5; and  
26 (B) prohibit the offender from residing within one  
27 thousand (1,000) feet of school property (as defined in  
28 IC 35-41-1-24.7) for the period of parole, unless the  
29 offender obtains written approval from the parole board.

30 **If the parole board allows the offender to reside within one**  
31 **thousand (1,000) feet of school property under subdivision (2)(B),**  
32 **the parole board shall notify each school within one thousand**  
33 **(1,000) feet of the offender's residence of the order.**

34 SECTION 3. IC 35-38-2-2.2 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.2. As a condition of  
36 probation for an offender (as defined in IC 5-2-12-4), the court shall:

- 37 (1) require the offender to register with a local law enforcement  
38 authority under IC 5-2-12-5; and  
39 (2) prohibit the offender from residing within one thousand  
40 (1,000) feet of school property (as defined in IC 35-41-1-24.7)  
41 for the period of probation, unless the offender obtains  
42 written approval from the court.



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1 If the court allows the offender to reside within one thousand  
2 (1,000) feet of school property under subdivision (2), the court shall  
3 notify each school within one thousand (1,000) feet of the offender's  
4 residence of the order.

5 SECTION 4. IC 35-50-2-14 IS ADDED TO THE INDIANA CODE  
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 1999]: Sec. 14. (a) The state may seek to have a person sentenced  
8 as a repeat sexual offender for a sex offense under IC 35-42-4-1  
9 through IC 35-42-4-9 or IC 35-46-1-3 by alleging, on a page  
10 separate from the rest of the charging instrument, that the person  
11 has accumulated one (1) prior unrelated felony conviction for a sex  
12 offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3.

13 (b) After a person has been convicted and sentenced for a felony  
14 committed after sentencing for a prior unrelated felony conviction  
15 under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, the  
16 person has accumulated one (1) prior unrelated felony conviction.  
17 However, a conviction does not count for purposes of this  
18 subsection, if:

- 19 (1) it has been set aside; or
  - 20 (2) it is one for which the person has been pardoned.
- 21 (c) The court alone shall conduct the sentencing hearing under  
22 IC 35-38-1-3.

23 (d) A person is a repeat sexual offender if the court finds that  
24 the state has proved beyond a reasonable doubt that the person  
25 had accumulated one (1) prior unrelated felony conviction under  
26 IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3.

27 (e) The court may sentence a person found to be a repeat sexual  
28 offender to an additional fixed term that is the presumptive  
29 sentence for the underlying offense. However, the additional  
30 sentence may not exceed ten (10) years.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1592, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1592 as introduced.)

DVORAK, Chair

Committee Vote: yeas 14, nays 0.

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SENATE MOTION

Mr. President: I move that Senator Zakas be added as cosponsor of Engrossed House Bill 1592.

BRAY

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SENATE MOTION

Mr. President: I move that Senator Bray be removed as sponsor of Engrossed House Bill 1592 and that Senator Zakas be substituted therefor.

BRAY

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SENATE MOTION

Mr. President: I move that Senator Zakas be removed as cosponsor of Engrossed House Bill 1592.

ZAKAS

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SENATE MOTION

Mr. President: I move that Senator Bray be added as cosponsor of Engrossed House Bill 1592.

ZAKAS

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 1592, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) The institute shall make the sex and violent offender registry available on a computer disk. Each time the registry is updated under section 10 of this chapter, the institute shall send one (1) paper copy of the sex and violent offender registry to:

- (1) all school corporations (as defined in IC 20-1-6-1);
- (2) all nonpublic schools (as defined in IC 20-10.1-1-3);
- (3) a state agency that licenses individuals who work with children;
- (4) the state personnel department to screen individuals who may be hired to work with children;
- (5) all child care facilities licensed by or registered in the state of Indiana; and
- (6) other entities that:
  - (A) provide services to children; and
  - (B) request the registry.

**(b) The institute shall publish the sex and violent offender registry on the Internet through the computer gateway administered by the intelnet commission under IC 5-21-2 and known as Access Indiana.**

**(c) A copy of the sex and violent offender registry provided to an entity under subdivision (5) or (6) may not or published under this section must include the home address of an offender whose name appears in the registry.**

SECTION 2. IC 11-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a

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written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
  - (A) the residence of the parolee prior to the parolee's incarceration; and
  - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

- (1) may require a parolee who is an offender (as defined in IC 5-2-12-4) to:
  - (~~1~~) (A) participate in a treatment program for sex offenders approved by the parole board; and
  - (~~2~~) (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:
    - (~~A~~) (i) receives the parole board's approval; or
    - (~~B~~) (ii) successfully completes the treatment program



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referred to in ~~subdivision (1)~~; clause (A); and

**(2) shall:**

**(A) require a parolee who is an offender (as defined in IC 5-2-12-4) to register with a local law enforcement authority under IC 5-2-12-5; and**

**(B) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the offender obtains written approval from the parole board.**

**If the parole board allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the offender's residence of the order.**

SECTION 3. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.2. As a condition of probation for an offender (as defined in IC 5-2-12-4), the court shall:

**(1) require the offender to register with a local law enforcement authority under IC 5-2-12-5; and**

**(2) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the offender obtains written approval from the court.**

**If the court allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the offender's residence of the order."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1592 as printed February 23, 1999.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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