

## SENATE BILL No. 577

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-10; IC 11-12-4-9; IC 31-37-19-7.

**Synopsis:** Incarcerated children. Provides that whenever a child is committed to an adult correctional facility or program, the department of correction shall restrict the child to an area of the facility or program where the child at all times has complete sight and sound separation from adults who are charged with, imprisoned for, or incarcerated for offenses. Applies regardless of whether the child is a criminal or a delinquent offender. Prohibits a child from being confined to a county jail unless the child is restricted to an area of the county jail where the child at all times has complete sight and sound separation from any adult who is charged with or incarcerated for an offense. Requires the department of correction to enroll each: (1) criminal offender who is  
(Continued next page)

**Effective:** July 1, 1999.

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**Meeks C**

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January 21, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Digest Continued

less than 18 years of age; and (2) delinquent offender who is committed to or a ward of the department of correction, in an appropriate educational program. Makes an exception if the criminal offender received a sentence of death or life imprisonment without parole.

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Introduced

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.

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## SENATE BILL No. 577



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

- 1 SECTION 1. IC 11-10-1-3 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Upon completion
- 3 of the evaluation prescribed in section 2 of this chapter and before
- 4 assigning him to a facility or program, the department shall determine
- 5 the appropriate degree of security (maximum, medium, or minimum)
- 6 for each offender as described in IC 35-38-3-6. In making that
- 7 determination, the department shall, in addition to other relevant
- 8 information, consider:
- 9 (1) the results of the evaluation prescribed in section 2 of this
- 10 chapter;
- 11 (2) the recommendations of the sentencing court; and
- 12 (3) the degree and kind of custodial control necessary for the
- 13 protection of the public, staff, other confined persons, and the
- 14 individual being considered.
- 15 (b) After determining the offender's security classification, the



1 department shall assign him to a facility or program; make an initial  
 2 employment, education, training, or other assignment within that  
 3 facility or program; and order medical, psychiatric, psychological, or  
 4 other services. In making the assignment, the department shall, in  
 5 addition to other relevant information, consider:

- 6 (1) the results of the evaluation prescribed in section 2 of this  
 7 chapter;  
 8 (2) the offender's security classification;  
 9 (3) the offender's need for special therapy or programs, including  
 10 employment, education, or training available only in specific  
 11 facilities or programs;  
 12 (4) the likelihood of the offender's reintegration into the  
 13 community in which the facility or program is located;  
 14 (5) the desirability of keeping the offender in a facility or program  
 15 near the area in which he resided before commitment;  
 16 (6) the desires of the offender;  
 17 (7) the current population levels of the facilities or programs  
 18 considered appropriate for the offender; ~~and~~  
 19 (8) the length of the offender's sentence; ~~and~~  
 20 **(9) the requirement to enroll an offender who is less than**  
 21 **eighteen (18) years of age in an educational program as**  
 22 **described in section 3.5 of this chapter.**

23 (c) If the department determines that a committed offender is  
 24 mentally or physically incapacitated to such an extent that proper  
 25 custody, care, and control cannot be provided by the department, it  
 26 shall make arrangements for placement outside the department.

27 (d) Before assigning an offender to a facility or program, the  
 28 department shall give him an opportunity to present pertinent  
 29 information; discuss with him all aspects of the evaluation,  
 30 classification, and assignment process; and work with him to determine  
 31 a fair and appropriate assignment.

32 (e) If an offender is sentenced to a term of imprisonment of one (1)  
 33 year or less, the department may make an assignment under this section  
 34 without making the evaluation prescribed in section 2 of this chapter.  
 35 In determining the length of an offender's term, consecutive terms of  
 36 imprisonment shall be added together.

37 (f) This section does not prohibit the temporary assignment of an  
 38 offender pending evaluation and classification.

39 SECTION 2. IC 11-10-1-3.5 IS ADDED TO THE INDIANA CODE  
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 41 1, 1999]: **Sec. 3.5. (a) This section does not apply to an offender who**  
 42 **receives a sentence of death or life imprisonment without parole.**



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1           **(b) The department shall enroll each offender who is less than**  
 2 **eighteen (18) years of age in an appropriate educational program**  
 3 **including:**

4           **(1) special or remedial education;**

5           **(2) a program in preparation for:**

6               **(A) a high school equivalency certificate; or**

7               **(B) a state of Indiana general educational development**  
 8 **(GED) diploma; or**

9           **(3) postsecondary or vocational education.**

10           SECTION 3. IC 11-10-1-8 IS ADDED TO THE INDIANA CODE  
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 12 1, 1999]: **Sec. 8. Whenever an offender who is less than eighteen**  
 13 **(18) years of age is committed to an adult correctional facility or**  
 14 **program, the department shall restrict the offender to an area of**  
 15 **the facility or program where the offender at all times has**  
 16 **complete sight and sound separation from adults who are charged**  
 17 **with, imprisoned for, or incarcerated for offenses.**

18           SECTION 4. IC 11-10-2-5 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Upon completion  
 20 of the evaluation prescribed in section 4 of this chapter, the department  
 21 shall assign the offender to a facility or program; make an initial  
 22 education, training, employment, or other assignment within that  
 23 facility or program; and order medical, psychiatric, psychological, or  
 24 other services it considers appropriate. In making the assignment, the  
 25 department shall, among other relevant information, consider:

26           (1) the results of the evaluation prescribed in section 4 of this  
 27 chapter;

28           (2) the recommendations of the committing court;

29           (3) the offender's need for special therapy or programs, including  
 30 education, training, or employment available only in specific  
 31 facilities or programs;

32           (4) the degree and type of custodial control necessary for the  
 33 protection of the public, staff, other committed offenders, and the  
 34 individual being considered;

35           (5) the likelihood of the offender's reintegration into the  
 36 community in which the facility or program is located;

37           (6) the desirability of keeping the offender in a facility or program  
 38 near the area in which he resided before commitment;

39           (7) the desires of the offender and his parents, guardian, or  
 40 custodian;

41           (8) the current population levels of the facilities or programs  
 42 considered appropriate for the offender; ~~and~~



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1 (9) the probable length of commitment; **and**  
 2 **(10) the requirement to enroll an offender in an educational**  
 3 **program as described in section 5.5 of this chapter.**

4 (b) If the department determines that a committed offender is  
 5 mentally or physically incapacitated to such an extent that proper  
 6 custody, care, and control cannot be provided by the department, it  
 7 shall make arrangements for placement outside the department.

8 (c) If an offender is found to be pregnant, the department may return  
 9 her to the committing court for further disposition.

10 (d) Before assigning an offender to a facility or program, the  
 11 department shall give him an opportunity to present pertinent  
 12 information, discuss with him all aspects of the evaluation and  
 13 assignment process, and work with him to determine a fair and  
 14 appropriate assignment.

15 (e) The department shall, by certified mail, return receipt requested,  
 16 notify the parent, guardian, custodian, or nearest relative of any  
 17 committed offender of his physical location and any change in that  
 18 location.

19 (f) This section does not preclude the temporary assignment of an  
 20 offender pending evaluation.

21 SECTION 5. IC 11-10-2-5.5 IS ADDED TO THE INDIANA CODE  
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 23 1, 1999]: **Sec. 5.5. The department shall enroll each offender who**  
 24 **is less than eighteen (18) years of age in an appropriate educational**  
 25 **program, including:**

26 **(1) special or remedial education;**

27 **(2) a program in preparation for:**

28 **(A) a high school equivalency certificate; or**

29 **(B) a state of Indiana general educational development**  
 30 **(GED) diploma; or**

31 **(3) postsecondary or vocational education.**

32 SECTION 6. IC 11-10-2-10 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The  
 34 commissioner may transfer a committed delinquent offender to an adult  
 35 facility or program according to the following requirements:

36 (1) The offender must be seventeen (17) years of age or older at  
 37 the time of transfer.

38 (2) The department must determine that:

39 (A) either the offender is incorrigible to the degree that his  
 40 presence at a facility or program for delinquent offenders is  
 41 seriously detrimental to the welfare of other offenders, or the  
 42 transfer is necessary for the offender's own physical safety or

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1 the physical safety of others; and  
 2 (B) there is no other action reasonably available to alleviate  
 3 the problem.

4 (3) No offender may be transferred to the Indiana state prison or  
 5 the Pendleton Correctional Facility.

6 (b) The offender is under the full custody of the adult facility or  
 7 program to which he is transferred until he is returned to a facility or  
 8 program for delinquent offenders, except that his parole or discharge  
 9 from the department shall be determined under IC 11-13-6.

10 (c) **Whenever a delinquent offender is transferred to an adult**  
 11 **facility or program under this section, the department shall restrict**  
 12 **the delinquent offender to an area of the facility or program where**  
 13 **the delinquent offender at all times has complete sight and sound**  
 14 **separation from adults who are charged with, imprisoned for, or**  
 15 **incarcerated for offenses.**

16 SECTION 7. IC 11-12-4-9 IS ADDED TO THE INDIANA CODE  
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 18 1, 1999]: **Sec. 9. A person who is less than eighteen (18) years of age**  
 19 **may not be confined to the county jail unless the person is**  
 20 **restricted to an area of the county jail where the person at all times**  
 21 **has complete sight and sound separation from any adult who is**  
 22 **charged with or incarcerated for an offense.**

23 SECTION 8. IC 31-37-19-7 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) With respect to  
 25 a wardship awarded under section 6(b)(2)(A) of this chapter, a child  
 26 may not be awarded to the department of correction if the child:

27 (1) except as provided by subsection (b), is:  
 28 (A) less than twelve (12) years of age; or  
 29 (B) at least eighteen (18) years of age;  
 30 at the time of the dispositional decree; or  
 31 (2) was determined to be a delinquent child because the child  
 32 violated IC 7.1-5-7.

33 (b) A wardship may be awarded to the department of correction if  
 34 the child:

35 (1) is ten (10) or eleven (11) years of age; and  
 36 (2) is found to have committed an act that would have been  
 37 murder if committed by an adult.

38 (c) The department of correction may not confine a delinquent child  
 39 **except as provided in IC 11-10-2-10**; at:

40 (1) an adult correctional facility **or program**; or  
 41 (2) a shelter care facility;  
 42 that houses persons charged with, imprisoned for, or incarcerated for

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1 crimes unless the child is restricted to an area of the facility **or**  
2 **program** where the child ~~may have not more than haphazard or~~  
3 ~~incidental~~ **at all times has complete** sight ~~or and~~ sound ~~contact with~~  
4 **separation from** persons charged with, imprisoned for, or incarcerated  
5 for crimes.

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