
HOUSE BILL No. 1284

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-8-1; IC 11-13-9; IC 35-33-8.7; IC 35-38-2.5; IC 35-44-3-5.

Synopsis: Violent offenders on home detention. Creates a provision for constant supervision of violent offenders on home detention: (1) as a condition of pre-trial release; and (2) as a condition of parole. Requires the department of correction, probation departments, and community corrections programs to develop written criteria and procedures to determine if an offender placed on home detention as a condition of pre-trial release or parole is a violent offender. Requires that an entity monitoring a violent offender: (1) provide local law enforcement agencies with information indicating whether an offender on home detention is a violent offender; and (2) cause a law enforcement agency to be contacted first if a violent offender violates a condition of home detention.

Effective: July 1, 2002.

Reske, Bardon, Linder, Ulmer

January 14, 2002, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 112th General Assembly (2002)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

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HOUSE BILL No. 1284



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 11-8-1-6.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]: **Sec. 6.5. "Constant supervision" means the monitoring of**
4 **a violent offender twenty-four (24) hours each day.**

5 SECTION 2. IC 11-8-1-8.7 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2002]: **Sec. 8.7. (a) "Home" means:**

8 (1) **the interior living area of the temporary or permanent**
9 **residence of a person; or**

10 (2) **if a person's residence is a multiple family dwelling, the**
11 **unit in which the person resides, not including the:**

12 (A) **halls or common areas outside the unit where the**
13 **person resides; or**

14 (B) **other units, occupied or unoccupied, in the multiple**
15 **family dwelling.**

16 (b) **The term includes a hospital, health care facility, hospice,**
17 **group home, maternity home, residential treatment facility, and**



1 boarding house.

2 (c) The term does not include a public correctional facility or
3 the residence of another person who is not part of the social unit
4 formed by the person's immediate family.

5 SECTION 3. IC 11-8-1-8.8 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2002]: Sec. 8.8. "Monitoring device" means an electronic device
8 that:

9 (1) is limited in capability to recording or transmitting
10 information regarding an offender's presence or absence from
11 the offender's home;

12 (2) is minimally intrusive upon the privacy of the offender or
13 other persons residing in the offender's home; and

14 (3) with the written consent of the offender and other persons
15 residing in the home at the time an order for home detention
16 is entered, may record or transmit:

17 (A) visual images;

18 (B) oral or wire communication or any auditory sound; or

19 (C) information regarding the offender's activities while
20 inside the offender's home.

21 SECTION 4. IC 11-8-1-8.9 IS ADDED TO THE INDIANA CODE
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
23 1, 2002]: Sec. 8.9. "Monitoring entity" means an entity that:

24 (1) is charged with supervising an offender on home detention
25 as a condition of parole; and

26 (2) uses a monitoring device and electronic surveillance
27 equipment to determine if an offender is present or absent
28 from the offender's home.

29 SECTION 5. IC 11-8-1-11 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 2002]: Sec. 11. "Security risk" means a person who is a:

32 (1) flight risk; or

33 (2) threat to the physical safety of the public.

34 SECTION 6. IC 11-8-1-12 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2002]: Sec. 12. "Violent offender" means a person who meets
37 either of the following conditions:

38 (1) Was placed on parole for conviction of any of the following
39 offenses or attempted offenses:

40 (A) Battery (IC 35-42-2-1).

41 (B) Domestic battery (IC 35-42-2-1.3).

42 (C) Arson (IC 35-43-1-1).

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- 1 **(D) Escape (IC 35-44-3-5).**
- 2 **(E) Failure to return to lawful detention (IC 35-44-3-5).**
- 3 **(F) Stalking (IC 35-45-10-5).**
- 4 **(G) Knowingly selling, manufacturing, purchasing, or**
- 5 **possessing a bomb or other container containing an**
- 6 **explosive or inflammable substance (IC 35-47-5-1).**
- 7 **(H) A crime identified as a "crime of violence" in**
- 8 **IC 35-50-1-2(a).**

9 **(2) Is a security risk, as determined under IC 11-13-9-2.**
 10 SECTION 7. IC 11-13-9 IS ADDED TO THE INDIANA CODE AS
 11 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2002]:

13 **Chapter 9. Violent Offenders on Home Detention as a Condition**
 14 **of Parole**

15 **Sec. 1. This chapter applies to an offender who has been placed**
 16 **on parole under IC 11-13-3 or IC 35-50-6-1.**

17 **Sec. 2. (a) The department of correction shall establish written**
 18 **criteria and procedures for determining whether an offender is a**
 19 **violent offender (as defined in IC 11-8-1-12).**

20 **(b) The department of correction shall use the criteria and**
 21 **procedures established under subsection (a) to establish a record**
 22 **keeping system that allows the department of correction to quickly**
 23 **determine whether an offender placed on home detention as a**
 24 **condition of parole is a violent offender.**

25 **Sec. 3. The department of correction, before a term of home**
 26 **detention begins, shall provide to the monitoring entity a written**
 27 **statement indicating whether the offender to be placed in home**
 28 **detention is a violent offender.**

29 **Sec. 4. A monitoring entity shall provide all law enforcement**
 30 **agencies having jurisdiction in the place where the offender's home**
 31 **detention is located with a list that includes the following**
 32 **information:**

- 33 **(1) The offender's name, any known aliases, and the location**
- 34 **of the offender's home detention.**
- 35 **(2) The crime for which the offender was convicted and**
- 36 **placed on parole.**
- 37 **(3) The date the offender's home detention expires.**
- 38 **(4) The name, address, and telephone number of the parole**
- 39 **officer supervising the offender on home detention.**
- 40 **(5) An indication of whether the offender is a violent offender.**

41 **Sec. 5. Except for absences from the offender's home for reasons**
 42 **set forth in IC 35-38-2.5-6(1), a monitoring entity shall, at the**

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1 beginning of a period of home detention, set the monitoring device
 2 and surveillance equipment to minimize the possibility that an
 3 offender can enter another residence or structure without a
 4 violation.

5 **Sec. 6. (a)** A monitoring entity shall immediately contact a local
 6 law enforcement agency described in section 4 of this chapter upon
 7 determining that a violent offender is violating a condition of home
 8 detention.

9 **(b)** A monitoring entity shall use a monitoring device and
 10 surveillance equipment to maintain constant supervision of the
 11 violent offender.

12 SECTION 8. IC 35-33-8.7 IS ADDED TO THE INDIANA CODE
 13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2002]:

15 **Chapter 8.7. Pre-Trial Release and Home Detention**

16 **Sec. 1.** As used in this chapter, "constant supervision" means
 17 the monitoring of a violent offender twenty-four (24) hours each
 18 day by means described in section 7 of this chapter.

19 **Sec. 2. (a)** As used in this chapter, "home" means:

- 20 (1) the interior living area of the temporary or permanent
 21 residence of a person; or
 22 (2) if a person's residence is a multiple family dwelling, the
 23 unit in which the person resides, not including the:
 24 (A) halls or common areas outside the unit where the
 25 person resides; or
 26 (B) other units, occupied or unoccupied, in the multiple
 27 family dwelling.

28 **(b)** The term includes a hospital, health care facility, hospice,
 29 group home, maternity home, residential treatment facility, and
 30 boarding house.

31 **(c)** The term does not include a public correctional facility or
 32 the residence of another person who is not part of the social unit
 33 formed by the person's immediate family.

34 **Sec. 3.** "Monitoring device" means an electronic device that:

- 35 (1) is limited in capability to recording or transmitting
 36 information regarding an offender's presence or absence from
 37 the offender's home;
 38 (2) is minimally intrusive upon the privacy of the offender or
 39 other persons residing in the offender's home; and
 40 (3) with the written consent of the offender and other persons
 41 residing in the home at the time an order for home detention
 42 is entered, may record or transmit:

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- 1 (A) visual images;
 2 (B) oral or wire communication or any auditory sound; or
 3 (C) information regarding the offender's activities while
 4 inside the offender's home.

5 **Sec. 4. As used in this chapter, "security risk" means a person**
 6 **who is a:**

- 7 (1) flight risk; or
 8 (2) threat to the physical safety of the public.

9 **Sec. 5. As used in this chapter, "violent offender" means a**
 10 **person who meets either of the following conditions:**

11 (1) Is charged with one (1) of the following offenses or
 12 attempted offenses:

- 13 (A) Battery (IC 35-42-2-1).
 14 (B) Domestic battery (IC 35-42-2-1.3).
 15 (C) Arson (IC 35-43-1-1).
 16 (D) Escape (IC 35-44-3-5).
 17 (E) Failure to return to lawful detention (IC 35-44-3-5).
 18 (F) Stalking (IC 35-45-10-5).
 19 (G) Knowingly selling, manufacturing, purchasing, or
 20 possessing a bomb or other container containing an
 21 explosive or inflammable substance (IC 35-47-5-1).
 22 (H) A crime identified as a "crime of violence" in
 23 IC 35-50-1-2(a).

24 (2) Is a security risk.

25 **Sec. 6. (a) If a person resides in a county other than the county**
 26 **in which the court has jurisdiction, the court may not place the**
 27 **person on home detention as a condition of pre-trial release unless:**

28 (1) the person is eligible for home detention as a condition of
 29 pre-trial release in the county in which the person resides;
 30 and

31 (2) supervision of the offender will be conducted by the county
 32 in which the person resides.

33 **(b) If a person is:**

34 (1) serving home detention in a county that operates a home
 35 detention program; and

36 (2) being supervised by a probation department or community
 37 corrections program located in a county other than the county
 38 in which the court has jurisdiction;

39 **the court may order that supervision of the person be transferred**
 40 **to the county where the person resides if the person remains on**
 41 **home detention in the other county.**

42 **(c) All home detention fees shall be collected by the county that**

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1 supervises the offender.

2 **Sec. 7. (a) Each probation department or community**
 3 **corrections department shall establish written criteria and**
 4 **procedures for determining whether a person placed on home**
 5 **detention as a condition of pre-trial release qualifies as a violent**
 6 **offender.**

7 **(b) A probation department or community corrections**
 8 **department shall use the criteria and procedures established under**
 9 **subsection (a) to establish a record keeping system that allows the**
 10 **department to quickly determine whether an offender placed on**
 11 **home detention as a condition of pre-trial release is a violent**
 12 **offender.**

13 **(c) A probation department or community corrections**
 14 **department charged by a court with supervision of a violent**
 15 **offender placed on home detention as a condition of pre-trial**
 16 **release shall provide all law enforcement agencies having**
 17 **jurisdiction in the place where the probation department or**
 18 **community corrections department is located with information on**
 19 **the violent offender supervised by the probation department or**
 20 **community corrections department. The information must include**
 21 **the following:**

22 **(1) The violent offender's name, any known aliases, and the**
 23 **location of the person's home detention.**

24 **(2) The crime with which the violent offender is charged.**

25 **(3) The name, address, and telephone number of the violent**
 26 **offender's supervising probation or community corrections**
 27 **officer for pre-trial home detention.**

28 **(4) An indication of whether the offender is a violent offender.**

29 **(d) A probation department or community corrections**
 30 **department charged by a court with supervision of an offender**
 31 **placed on home detention as a condition of pre-trial release shall**
 32 **set the monitoring device and surveillance equipment to minimize**
 33 **the possibility that the offender can enter another residence or**
 34 **structure without a violation.**

35 **Sec. 8. (a) A contract agency described in subsection (b) or a**
 36 **probation department or community corrections department**
 37 **charged by a court with supervision of a violent offender placed on**
 38 **home detention under this chapter shall immediately contact a**
 39 **local law enforcement agency upon determining that a violent**
 40 **offender is violating a condition of home detention.**

41 **(b) A probation department or community corrections**
 42 **department charged by a court with supervision of a violent**

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1 **offender placed on home detention under this chapter shall use a**
 2 **monitoring device and surveillance equipment to maintain constant**
 3 **supervision of the violent offender. The supervising entity may do**
 4 **this by:**

5 **(1) using the supervising entity's equipment and personnel; or**

6 **(2) contracting with an outside entity.**

7 SECTION 9. IC 35-38-2.5-4.7, AS ADDED BY P.L.137-2001,
 8 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2002]: Sec. 4.7. As used in this chapter, "violent offender"
 10 means a person who is:

11 (1) convicted of an offense or attempted offense, except for an
 12 offense under IC 35-42-4 or IC 35-46-1-3, under IC 35-50-1-2(a),
 13 IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5,
 14 IC 35-45-10-5, or IC 35-47-5-1; **or**

15 ~~(2) charged with an offense or attempted offense listed in~~
 16 ~~IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1,~~
 17 ~~IC 35-44-3-5, IC 35-45-10-5, or IC 35-47-5-1; **or**~~

18 ~~(3)~~ **(2)** a security risk as determined under section 10 of this
 19 chapter.

20 SECTION 10. IC 35-38-2.5-10, AS AMENDED BY P.L.137-2001,
 21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2002]: Sec. 10. (a) Each probation department or community
 23 corrections department shall establish written criteria and procedures
 24 for determining whether an offender ~~or alleged offender~~ that the
 25 department supervises on home detention qualifies as a violent
 26 offender.

27 (b) A probation or community corrections department shall use the
 28 criteria and procedures established under subsection (a) to establish a
 29 record keeping system that allows the department to quickly determine
 30 whether an offender ~~or alleged offender~~ who violates the terms of a
 31 home detention order is a violent offender.

32 (c) A probation department or a community corrections program
 33 charged by a court with supervision of ~~offenders and alleged offenders~~
 34 **an offender** ordered to undergo home detention shall provide all law
 35 enforcement agencies ~~(including any contract agencies)~~ having
 36 jurisdiction in the place where the probation department or a
 37 community corrections program is located with a list of offenders ~~and~~
 38 ~~alleged offenders~~ under home detention supervised by the probation
 39 department or the community corrections program. The list must
 40 include the following information about each offender: ~~and alleged~~
 41 ~~offender:~~

42 (1) The offender's name, any known aliases, and the location of

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1 the offender's home detention.

2 (2) The crime for which the offender was convicted.

3 (3) The date the offender's home detention expires.

4 (4) The name, address, and telephone number of the offender's
5 supervising probation or community corrections program officer
6 for home detention.

7 (5) An indication of whether the offender ~~or alleged offender~~ is a
8 violent offender.

9 (d) Except **for the offender's absences from the offender's home**
10 as provided under section 6(1) of this chapter, a probation department
11 or community corrections program charged by a court with supervision
12 of ~~offenders and alleged offenders~~ **an offender** ordered to undergo
13 home detention shall, at the beginning of a period of home detention,
14 set the monitoring device and surveillance equipment to minimize the
15 possibility that the offender ~~or alleged offender~~ can enter another
16 residence or structure without a violation.

17 SECTION 11. IC 35-38-2.5-12, AS ADDED BY P.L.137-2001,
18 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2002]: Sec. 12. (a) A **contracting entity described in**
20 **subsection (b)**, probation department, or community corrections
21 program charged by a court with supervision of a violent offender
22 placed on home detention under this chapter shall cause a local law
23 enforcement agency ~~or contract agency~~ described in section 10 of this
24 chapter to be the initial agency contacted upon determining that the
25 violent offender is in violation of a court order for home detention.

26 (b) A probation department or community corrections program
27 charged by a court with supervision of a violent offender placed on
28 home detention under this chapter shall maintain constant supervision
29 of the violent offender using a monitoring device and surveillance
30 equipment. The supervising entity may do this by:

31 (1) using the supervising entity's equipment and personnel; or

32 (2) contracting with an outside entity.

33 SECTION 12. IC 35-44-3-5, AS AMENDED BY P.L.137-2001,
34 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2002]: Sec. 5. (a) A person, except as provided in subsection
36 (b), who intentionally flees from lawful detention commits escape, a
37 Class C felony. However, the offense is a Class B felony if, while
38 committing it, the person draws or uses a deadly weapon or inflicts
39 bodily injury on another person.

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

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

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