



February 14, 2003

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## SENATE BILL No. 279

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DIGEST OF SB 279 (Updated February 12, 2003 12:37 PM - DI 106)

**Citations Affected:** IC 5-2; IC 36-2.

**Synopsis:** Sex offender registration. Requires persons convicted of possession of child pornography to register as sex offenders. Increases the penalty for a person who fails to register as a sex offender to a Class B felony for a subsequent offense. Removes a provision permitting offenders adjudicated as sexually violent predators to be removed from the directory. Specifies that the sex offender web site is to be: (1) operated by the Indiana sheriff's association; and (2) updated every 7 days.

**Effective:** July 1, 2003.

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### Drozda, Long, Hershman

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January 9, 2003, read first time and referred to Committee on Judiciary.  
February 13, 2003, amended, reported favorably — Do Pass.

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SB 279—LS 6631/DI 106+



February 14, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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## SENATE BILL No. 279

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 5-2-12-4, AS AMENDED BY P.L.116-2002,  
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 4. (a) As used in this chapter, "offender" means  
4 a person convicted of any of the following sex and violent offenses:  
5 (1) Rape (IC 35-42-4-1).  
6 (2) Criminal deviate conduct (IC 35-42-4-2).  
7 (3) Child molesting (IC 35-42-4-3).  
8 (4) Child exploitation (IC 35-42-4-4(b)).  
9 (5) Vicarious sexual gratification (IC 35-42-4-5).  
10 (6) Child solicitation (IC 35-42-4-6).  
11 (7) Child seduction (IC 35-42-4-7).  
12 (8) Sexual misconduct with a minor as a Class A, Class B, or  
13 Class C felony (IC 35-42-4-9).  
14 (9) Incest (IC 35-46-1-3).  
15 (10) Sexual battery (IC 35-42-4-8).  
16 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen  
17 (18) years of age.

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1 (12) Criminal confinement (IC 35-42-3-3), if the victim is less  
 2 than eighteen (18) years of age.  
 3 (13) **Possession of child pornography (IC 35-42-4-4(c)).**  
 4 (14) An attempt or conspiracy to commit a crime listed in  
 5 subdivisions (1) through ~~(12)~~: **(13).**  
 6 ~~(14)~~ (15) A crime under the laws of another jurisdiction,  
 7 including a military court, that is substantially equivalent to any  
 8 of the offenses listed in subdivisions (1) through ~~(13)~~: **(14).**  
 9 (b) The term includes a child who has committed a delinquent act  
 10 and who:  
 11 (1) is at least fourteen (14) years of age;  
 12 (2) is on probation, is on parole, or is discharged from a facility by  
 13 the department of correction, is discharged from a secure private  
 14 facility (as defined in IC 31-9-2-115), or is discharged from a  
 15 juvenile detention facility as a result of an adjudication as a  
 16 delinquent child for an act that would be an offense described in  
 17 subsection (a) if committed by an adult; and  
 18 (3) is found by a court by clear and convincing evidence to be  
 19 likely to repeat an act that would be an offense described in  
 20 subsection (a) if committed by an adult.  
 21 SECTION 2. IC 5-2-12-9, AS AMENDED BY P.L.116-2002,  
 22 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2003]: Sec. 9. An offender who knowingly or intentionally  
 24 fails to register under this chapter commits a Class D felony. However,  
 25 the offense is a ~~Class C~~ **Class B** felony if the offender has a prior  
 26 unrelated offense under this section.  
 27 SECTION 3. IC 5-2-12-13, AS AMENDED BY P.L.116-2002,  
 28 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2003]: Sec. 13. (a) Except as provided in subsections (b) and  
 30 (c), an offender's duty to register expires ten (10) years after the date  
 31 the offender:  
 32 (1) is released from a penal facility (as defined in IC 35-41-1-21)  
 33 or a secure juvenile detention facility of a state or another  
 34 jurisdiction;  
 35 (2) is placed in a community transition program;  
 36 (3) is placed in a community corrections program;  
 37 (4) is placed on parole; or  
 38 (5) is placed on probation;  
 39 whichever occurs last.  
 40 (b) An offender who is found to be a sexually violent predator by a  
 41 court under IC 35-38-1-7.5(b) is required to register for an indefinite  
 42 period. ~~unless a court, assisted by a board of experts, finds that the~~

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1 offender is no longer a sexually violent predator under  
2 IC 35-38-1-7.5(c):

3 (c) An offender who is convicted of at least one (1) sex and violent  
4 offense that the offender committed:

- 5 (1) when the person was at least eighteen (18) years of age; and  
6 (2) against a victim who was less than twelve (12) years of age at  
7 the time of the crime;

8 is required to register for life.

9 (d) An offender who is convicted of at least one (1) sex and violent  
10 offense in which the offender:

- 11 (1) proximately caused serious bodily injury or death to the  
12 victim;  
13 (2) used force or the threat of force against the victim or a  
14 member of the victim's family; or  
15 (3) rendered the victim unconscious or otherwise incapable of  
16 giving voluntary consent;

17 is required to register for life.

18 (e) An offender who is convicted of at least two (2) unrelated sex  
19 and violent offenses is required to register for life.

20 SECTION 4. IC 36-2-13-5.5, AS ADDED BY P.L.116-2002,  
21 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2003]: Sec. 5.5. (a) The sheriffs shall jointly establish and  
23 maintain a sex offender web site, known as the Indiana sheriffs' sex  
24 offender registry, to inform the general public about the identity,  
25 location, and appearance of every sex offender residing within Indiana.  
26 The web site must provide information regarding each sex offender,  
27 organized by county of residence. **The web site shall be operated by**  
28 **the Indiana sheriff's association. The Indiana sheriff's association**  
29 **shall ensure that the web site is updated at least every seven (7)**  
30 **days.**

31 (b) The sex offender web site must include the following  
32 information:

- 33 (1) A recent photograph of every sex offender who has registered  
34 with a sheriff after the effective date of this chapter.  
35 (2) The home address of every sex offender.  
36 (3) The information required to be included in the sex offender  
37 directory (IC 5-2-12-6).

38 (c) Every time a sex offender submits a new registration form to the  
39 sheriff, but at least once per year, the sheriff shall photograph the sex  
40 offender. The sheriff shall place this photograph on the sex offender  
41 web site.

42 (d) The photograph of a sex offender described in subsection (c)



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- 1 must meet the following requirements:
- 2 (1) The photograph must be full face, front view, with a plain
- 3 white or off-white background.
- 4 (2) The image of the offender's face, measured from the bottom
- 5 of the chin to the top of the head, must fill at least seventy-five
- 6 percent (75%) of the photograph.
- 7 (3) The photograph must be in color.
- 8 (4) The photograph must show the offender dressed in normal
- 9 street attire, without a hat or headgear that obscures the hair or
- 10 hairline.
- 11 (5) If the offender normally and consistently wears prescription
- 12 glasses, a hearing device, wig, or a similar article, the photograph
- 13 must show the offender wearing those items. A photograph may
- 14 not include dark glasses or nonprescription glasses with tinted
- 15 lenses unless the offender can provide a medical certificate
- 16 demonstrating that tinted lenses are required for medical reasons.
- 17 (6) The photograph must have sufficient resolution to permit the
- 18 offender to be easily identified by a person accessing the sex
- 19 offender web site.
- 20 (e) The sex offender web site may be funded from:
- 21 (1) the jail commissary fund (IC 36-8-10-21);
- 22 (2) a grant from the criminal justice institute; and
- 23 (3) any other source, subject to the approval of the county fiscal
- 24 body.

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SENATE MOTION

Mr. President: I move that Senator Hershman be added as coauthor of Senate Bill 279.

DROZDA

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SENATE MOTION

Mr. President: I move that Senator Long be as second author of Senate Bill 279.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 279, 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 2, line 24, reset in roman "Class D".

Page 2, line 24, delete "Class C".

Page 3, line 29, delete "thirty (30)" and insert "**seven (7)**".

and when so amended that said bill do pass.

(Reference is to SB 279 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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