
HOUSE BILL No. 1407

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-13-3-4; IC 35-35-3-2.5; IC 35-38-2-2.5; IC 36-2-13-5.5.

Synopsis: Sex offenders. Requires the parole board, if a sex offender is on parole, or the court, if a sex offender is on probation, to notify a victim of a sex offense of the sex offender's principal residence address. Requires that information concerning a sex or violent offender's sentence and residency restrictions be included on the sex and violent offender registry web site. Provides that a plea agreement may include a requirement that a person register as a sex or violent offender.

Effective: July 1, 2009.

Tyler

January 13, 2009, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1407



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 11-13-3-4, AS AMENDED BY P.L.46-2008,
2 SECTION 1, AND AS AMENDED BY P.L.119-2008, SECTION 10,
3 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A condition to remaining on
5 parole is that the parolee not commit a crime during the period of
6 parole.

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

12 (c) If a person is released on parole, the parolee shall be given a
13 written statement of the conditions of parole. Signed copies of this
14 statement shall be:

- 15 (1) retained by the parolee;
- 16 (2) forwarded to any person charged with the parolee's
- 17 supervision; and



- 1 (3) placed in the parolee's master file.
- 2 (d) The parole board may modify parole conditions if the parolee
- 3 receives notice of that action and had ten (10) days after receipt of the
- 4 notice to express the parolee's views on the proposed modification.
- 5 This subsection does not apply to modification of parole conditions
- 6 after a revocation proceeding under section 10 of this chapter.
- 7 (e) As a condition of parole, the parole board may require the
- 8 parolee to reside in a particular parole area. In determining a parolee's
- 9 residence requirement, the parole board shall:
- 10 (1) consider:
- 11 (A) the residence of the parolee prior to the parolee's
- 12 incarceration; and
- 13 (B) the parolee's place of employment; and
- 14 (2) assign the parolee to reside in the county where the parolee
- 15 resided prior to the parolee's incarceration unless assignment on
- 16 this basis would be detrimental to the parolee's successful
- 17 reintegration into the community.
- 18 (f) As a condition of parole, the parole board may require the
- 19 parolee to:
- 20 (1) periodically undergo a laboratory chemical test (as defined in
- 21 IC 14-15-8-1) or series of tests to detect and confirm the presence
- 22 of a controlled substance (as defined in IC 35-48-1-9); and
- 23 (2) have the results of any test under this subsection reported to
- 24 the parole board by the laboratory.
- 25 The parolee is responsible for any charges resulting from a test
- 26 required under this subsection. However, a person's parole may not be
- 27 revoked on the basis of the person's inability to pay for a test under this
- 28 subsection.
- 29 (g) As a condition of parole, the parole board:
- 30 (1) may require a parolee who is a sex offender (as defined in
- 31 IC 11-8-8-4.5) to:
- 32 (A) participate in a treatment program for sex offenders
- 33 approved by the parole board; and
- 34 (B) avoid contact with any person who is less than sixteen (16)
- 35 years of age unless the parolee:
- 36 (i) receives the parole board's approval; or
- 37 (ii) successfully completes the treatment program referred to
- 38 in clause (A); and
- 39 (2) shall:
- 40 (A) require a parolee who is a sex or violent offender (as
- 41 defined in IC 11-8-8-5) to register with a local law
- 42 enforcement authority under IC 11-8-8;

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1 (B) prohibit a parolee who is a sex offender from residing
 2 within one thousand (1,000) feet of school property (as defined
 3 in IC 35-41-1-24.7) for the period of parole, unless the sex
 4 offender obtains written approval from the parole board;
 5 (C) prohibit a parolee who is a sex offender convicted of a sex
 6 offense (as defined in IC 35-38-2-2.5) from residing within
 7 one (1) mile of the victim of the sex offender's sex offense
 8 unless the sex offender obtains a waiver under IC 35-38-2-2.5;
 9 *and*
 10 (D) prohibit a parolee who is a sex offender from owning,
 11 operating, managing, being employed by, or volunteering at
 12 any attraction designed to be primarily enjoyed by children
 13 less than sixteen (16) years of age;
 14 (E) require a parolee who is a sex offender to consent:
 15 (i) to the search of the sex offender's personal computer at
 16 any time; and
 17 (ii) to the installation on the sex offender's personal
 18 computer or device with Internet capability, at the sex
 19 offender's expense, of one (1) or more hardware or software
 20 systems to monitor Internet usage; and
 21 (F) prohibit the sex offender from:
 22 (i) accessing or using certain web sites, chat rooms, or
 23 instant messaging programs frequented by children; and
 24 (ii) deleting, erasing, or tampering with information on the
 25 sex offender's personal computer with intent to conceal an
 26 activity prohibited by item (i).
 27 The parole board may not grant a sexually violent predator (as defined
 28 in IC 35-38-1-7.5) or a sex offender who is an offender against children
 29 under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the
 30 parole board allows the sex offender to reside within one thousand
 31 (1,000) feet of school property under subdivision (2)(B), the parole
 32 board shall notify each school within one thousand (1,000) feet of the
 33 sex offender's residence of the order.
 34 (h) The address of the victim of a parolee who is a sex offender
 35 convicted of a sex offense (as defined in IC 35-38-2-2.5) is
 36 confidential, even if the sex offender obtains a waiver under
 37 IC 35-38-2-2.5.
 38 (i) As a condition of parole, the parole board may require a parolee
 39 to participate in a reentry court program.
 40 (j) As a condition of parole, the parole board:
 41 (1) shall require a parolee who is a sexually violent predator
 42 under IC 35-38-1-7.5; and

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1 (2) may require a parolee who is a sex or violent offender (as
2 defined in IC 11-8-8-5);
3 to wear a monitoring device (as described in IC 35-38-2.5-3) that can
4 transmit information twenty-four (24) hours each day regarding a
5 person's precise location.

6 (k) As a condition of parole, the parole board may prohibit, in
7 accordance with IC 35-38-2-2.6, a parolee who has been convicted of
8 stalking from residing within one thousand (1,000) feet of the residence
9 of the victim of the stalking for a period that does not exceed five (5)
10 years.

11 (l) *A parolee may be responsible for the reasonable expenses, as*
12 *determined by the department, of the parolee's participation in a*
13 *treatment or other program required as a condition of parole under*
14 *this section. However, a person's parole may not be revoked solely on*
15 *the basis of the person's inability to pay for a program required as a*
16 *condition of parole under this section.*

17 **(m) If a parolee is a sex offender (as defined in IC 11-8-8-4.5),**
18 **the parole board shall provide the parolee's principal residence**
19 **address to the victim of the sex offense (as defined in IC 11-8-8-5.2)**
20 **of which the parolee was convicted.**

21 SECTION 2. IC 35-35-3-2.5 IS ADDED TO THE INDIANA CODE
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
23 1, 2009]: **Sec. 2.5. A plea agreement may require a defendant to**
24 **register as a sex or violent offender under IC 11-8-8 for a specified**
25 **time.**

26 SECTION 3. IC 35-38-2-2.5, AS AMENDED BY P.L.216-2007,
27 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2009]: Sec. 2.5. (a) As used in this section, "offender" means
29 an individual convicted of a sex offense.

30 (b) As used in this section, "sex offense" means any of the
31 following:

- 32 (1) Rape (IC 35-42-4-1).
- 33 (2) Criminal deviate conduct (IC 35-42-4-2).
- 34 (3) Child molesting (IC 35-42-4-3).
- 35 (4) Child exploitation (IC 35-42-4-4(b)).
- 36 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 37 (6) Child solicitation (IC 35-42-4-6).
- 38 (7) Child seduction (IC 35-42-4-7).
- 39 (8) Sexual battery (IC 35-42-4-8).
- 40 (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- 41 (10) Incest (IC 35-46-1-3).

42 (c) A condition of remaining on probation or parole after conviction

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1 for a sex offense is that the offender not reside within one (1) mile of
2 the residence of the victim of the offender's sex offense.

3 (d) An offender:

4 (1) who will be placed on probation shall provide the sentencing
5 court and the probation department with the address where the
6 offender intends to reside during the period of probation:

7 (A) at the time of sentencing if the offender will be placed on
8 probation without first being incarcerated; or

9 (B) before the offender's release from incarceration if the
10 offender will be placed on probation after completing a term
11 of incarceration; or

12 (2) who will be placed on parole shall provide the parole board
13 with the address where the offender intends to reside during the
14 period of parole.

15 (e) An offender, while on probation or parole, may not establish a
16 new residence within one (1) mile of the residence of the victim of the
17 offender's sex offense unless the offender first obtains a waiver from
18 the:

19 (1) court, if the offender is placed on probation; or

20 (2) parole board, if the offender is placed on parole;

21 for the change of address under subsection (f).

22 (f) The court or parole board may waive the requirement set forth in
23 subsection (c) only if the court or parole board, at a hearing at which
24 the offender is present and of which the prosecuting attorney has been
25 notified, determines that:

26 (1) the offender has successfully completed a sex offender
27 treatment program during the period of probation or parole;

28 (2) the offender is in compliance with all terms of the offender's
29 probation or parole; and

30 (3) good cause exists to allow the offender to reside within one (1)
31 mile of the residence of the victim of the offender's sex offense.

32 However, the court or parole board may not grant a waiver under this
33 subsection if the offender is a sexually violent predator under
34 IC 35-38-1-7.5 or if the offender is an offender against children under
35 IC 35-42-4-11.

36 (g) If the court or parole board grants a waiver under subsection (f),
37 the court or parole board shall state in writing the reasons for granting
38 the waiver. The court's written statement of its reasons shall be
39 incorporated into the record.

40 (h) The address of the victim of the offender's sex offense is
41 confidential even if the court or parole board grants a waiver under
42 subsection (f).

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- 1 **(i) When an offender is placed on probation or parole:**
- 2 **(1) the court, if the offender is placed on probation; or**
- 3 **(2) the parole board, if the offender is placed on parole;**
- 4 **shall notify the victim of the offender's sex offense of the offender's**
- 5 **principal residence address.**

6 SECTION 4. IC 36-2-13-5.5, AS AMENDED BY P.L.216-2007,
 7 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2009]: Sec. 5.5. (a) The sheriffs shall jointly establish and
 9 maintain an Indiana sex and violent offender registry web site, known
 10 as the Indiana sex and violent offender registry, to inform the general
 11 public about the identity, location, and appearance of every sex or
 12 violent offender residing within Indiana. The web site must provide
 13 information regarding each sex or violent offender, organized by
 14 county of residence. The web site shall be updated at least daily.

15 (b) The Indiana sex and violent offender registry web site must
 16 include the following information:

- 17 (1) A recent photograph of every sex or violent offender who has
- 18 registered with a sheriff after the effective date of this chapter.
- 19 (2) The home address of every sex or violent offender.
- 20 (3) The information required under IC 11-8-8-8.
- 21 **(4) The sentence that the sex or violent offender received for**
- 22 **each conviction that would require the sex or violent offender**
- 23 **to register as a sex or violent offender.**
- 24 **(5) Restrictions imposed on the sex or violent offender by a**
- 25 **sentencing court or as a condition of probation or parole,**
- 26 **including a prohibition under IC 11-13-3-4(g)(2)(C) or**
- 27 **IC 35-38-2-2.5(c) against residing within one (1) mile of the**
- 28 **victim's residence.**

29 (c) Every time a sex or violent offender registers, but at least once
 30 per year, the sheriff shall:

- 31 (1) photograph the sex or violent offender; and
- 32 (2) determine whether the sex or violent offender's fingerprints
- 33 are on file:
 - 34 (A) in Indiana; or
 - 35 (B) with the Federal Bureau of Investigation.

36 If it appears that the sex or violent offender's fingerprints are not on file
 37 as described in subdivision (2), the sheriff shall fingerprint the sex or
 38 violent offender and transmit a copy of the fingerprints to the state
 39 police department. The sheriff shall place the photograph described in
 40 subdivision (1) on the Indiana sex and violent offender registry web
 41 site.

42 (d) The photograph of a sex or violent offender described in

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- 1 subsection (c) 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 Indiana
- 19 sex and violent offender registry web site.
- 20 (e) The Indiana sex and violent offender registry web site may be
- 21 funded from:
- 22 (1) the jail commissary fund (IC 36-8-10-21);
- 23 (2) a grant from the criminal justice institute; and
- 24 (3) any other source, subject to the approval of the county fiscal
- 25 body.

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