



Reprinted
February 23, 2010

ENGROSSED
SENATE BILL No. 340

DIGEST OF SB 340 (Updated February 22, 2010 4:56 pm - DI 107)

Citations Affected: IC 2-5.5; IC 11-11; IC 11-12; IC 11-13; IC 27-10;
IC 35-33; IC 35-38; IC 35-50.

Synopsis: Parole board duties, community corrections, and bail. Makes conducting a community investigation by the parole board mandatory for certain individuals. Reduces the standard period of parole from two years to one year unless the parolee: (1) is a repeat parolee; (2) is being placed on parole for a conviction for a crime of violence; (3) is a sex offender; or (4) has violated a DOC rule in the six months prior to release. Provides that department of correction (department) rules concerning the maintenance of order and discipline among committed persons applies to persons placed in a community corrections program or assigned to a community transition program. Repeals a provision that requires a county that receives a grant from the department commissioner for the establishment and operation of a community corrections program to be charged a sum for certain persons committed to the department and confined in a state correctional facility. Requires
(Continued next page)

Effective: July 1, 2010.

Bray, Steele, Lanane, Randolph

(HOUSE SPONSORS — LAWSON L, FOLEY)

January 11, 2010, read first time and referred to Committee on Judiciary.
January 28, 2010, amended, reported favorably — Do Pass.
February 1, 2010, read second time, ordered engrossed. Engrossed.
February 2, 2010, read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

February 9, 2010, read first time and referred to Committee on Judiciary.
February 18, 2010, amended, reported — Do Pass.
February 22, 2010, read second time, amended, ordered engrossed.

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that a community corrections plan must include a method to evaluate each component of the program to determine the overall use of department approved best practices for the program. Provides that the department must require community corrections programs to submit an evaluation of the use of department approved best practices for community correction program components in proposed budget requests. Provides that, for the purposes of the law concerning home detention, a home includes the residence of another person who is not part of the social unit formed by an offender's immediate family. Establishes certain standards and criteria for direct placement of offenders in community corrections programs. Specifies that, for purposes of the law concerning direct placement in community corrections programs: (1) "home" means the actual living area of the temporary or permanent residence of a person; and (2) a person who is placed in a community corrections program under the law is entitled to earn credit time. Allows a person to be deprived of credit time for violating a rule or condition of a community corrections program. Makes changes to the Indiana bail law concerning: (1) notices to sureties and bond agents; and (2) failure to appear. Requires the sentencing policy study committee to study and make recommendations regarding whether individuals on parole should be eligible to receive credit time to potentially shorten their period of parole. Removes a requirement that courts include the costs of incarceration in a sentencing order. Provides that the parole board shall require certain parolees to wear monitoring device if the department of correction determines that sufficient funding is available.

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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED SENATE BILL No. 340

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 2-5.5-2-5, AS ADDED BY P.L.16-2009, SECTION
2 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2010]: Sec. 5. The committee shall do the following:
4 (1) Evaluate the existing classification of criminal offenses into
5 felony and misdemeanor categories. In determining the proper
6 category for each felony and misdemeanor, the committee shall
7 consider, to the extent they have relevance, the following:
8 (A) The nature and degree of harm likely to be caused by the
9 offense, including whether the offense involves property,
10 irreplaceable property, a person, a number of persons, or a
11 breach of the public trust.
12 (B) The deterrent effect a particular classification may have on
13 the commission of the offense.
14 (C) The current incidence of the offense in Indiana.
15 (D) The rights of the victim.
16 (2) Recommend structures to be used by a sentencing court in
17 determining the most appropriate sentence to be imposed in a

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1 criminal case, including any combination of imprisonment,
 2 probation, restitution, community service, or house arrest. The
 3 committee shall also consider the following:
 4 (A) The nature and characteristics of the offense.
 5 (B) The severity of the offense in relation to other offenses.
 6 (C) The characteristics of the defendant that mitigate or
 7 aggravate the seriousness of the criminal conduct and the
 8 punishment deserved for that conduct.
 9 (D) The number of the defendant's prior convictions.
 10 (E) The available resources and capacity of the department of
 11 correction, local confinement facilities, and community based
 12 sanctions.
 13 (F) The rights of the victim.
 14 The committee shall include with each set of sentencing
 15 structures an estimate of the effect of the sentencing structures on
 16 the department of correction and local facilities with respect to
 17 both fiscal impact and inmate population.
 18 (3) Review community corrections and home detention programs
 19 for the purpose of:
 20 (A) standardizing procedures and establishing rules for the
 21 supervision of home detainees; and
 22 (B) establishing procedures for the supervision of home
 23 detainees by community corrections programs of adjoining
 24 counties.
 25 (4) Determine the long range needs of the criminal justice and
 26 corrections systems and recommend policy priorities for those
 27 systems.
 28 (5) Identify critical problems in the criminal justice and
 29 corrections systems and recommend strategies to solve the
 30 problems.
 31 (6) Assess the cost effectiveness of the use of state and local
 32 funds in the criminal justice and corrections systems.
 33 (7) Recommend a comprehensive community corrections strategy
 34 based on the following:
 35 (A) A review of existing community corrections programs.
 36 (B) The identification of additional types of community
 37 corrections programs necessary to create an effective
 38 continuum of corrections sanctions.
 39 (C) The identification of categories of offenders who should be
 40 eligible for sentencing to community corrections programs and
 41 the impact that changes to the existing system of community
 42 corrections programs would have on sentencing practices.

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- 1 (D) The identification of necessary changes in state oversight
- 2 and coordination of community corrections programs.
- 3 (E) An evaluation of mechanisms for state funding and local
- 4 community participation in the operation and implementation
- 5 of community corrections programs.
- 6 (F) An analysis of the rate of recidivism of clients under the
- 7 supervision of existing community corrections programs.
- 8 (8) Propose plans, programs, and legislation for improving the
- 9 effectiveness of the criminal justice and corrections systems.
- 10 (9) Evaluate the use of faith based organizations as an alternative
- 11 to incarceration.
- 12 (10) Study issues related to sex offenders, including:
- 13 (A) lifetime parole;
- 14 (B) GPS or other electronic monitoring;
- 15 (C) a classification system for sex offenders;
- 16 (D) recidivism; and
- 17 (E) treatment.

18 **(11) Study and make recommendations regarding whether**
 19 **individuals on parole should be eligible to receive credit time**
 20 **to potentially shorten their period of parole.**

21 SECTION 2. IC 11-11-5-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. **(a) This chapter**
 23 **applies to persons:**

- 24 **(1) placed in a community corrections program; or**
- 25 **(2) assigned to a community transition program.**

26 **(b)** This chapter does not apply to persons released on parole.

27 SECTION 3. IC 11-12-2-1 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) For the purpose
 29 of encouraging counties to develop a coordinated local
 30 corrections-criminal justice system and providing effective alternatives
 31 to imprisonment at the state level, the commissioner shall, out of funds
 32 appropriated for such purposes, make grants to counties for the
 33 establishment and operation of community corrections programs.
 34 Appropriations intended for this purpose may not be used by the
 35 department for any other purpose. Money appropriated to the
 36 department of correction for the purpose of making grants under this
 37 chapter and ~~charges made against a county~~ **any financial aid**
 38 **payments suspended** under section ~~9~~ **6 of this chapter** do not revert
 39 to the state general fund at the close of any fiscal year, but remain
 40 available to the department of correction for its use in making grants
 41 under this chapter.

42 (b) The commissioner shall give priority in issuing community

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1 corrections grants to programs that provide alternative sentencing
2 projects for persons with mental illness, addictive disorders, mental
3 retardation, and developmental disabilities.

4 SECTION 4. IC 11-12-2-3 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A community
6 corrections advisory board shall:

7 (1) formulate:

8 (A) the community corrections plan and the application for
9 financial aid required by section 4 of this chapter; and

10 (B) the forensic diversion program plan under IC 11-12-3.7;

11 (2) observe and coordinate community corrections programs in
12 the county;

13 (3) make an annual report to the county fiscal body, county
14 executive, or, in a county having a consolidated city, the
15 city-county council, containing an evaluation of the effectiveness
16 of programs receiving financial aid under this chapter and
17 recommendations for improvement, modification, or
18 discontinuance of these programs;

19 (4) ensure that programs receiving financial aid under this chapter
20 comply with the standards adopted by the department under
21 section 5 of this chapter; and

22 (5) recommend to the county executive or, in a county having a
23 consolidated city, to the city-county council, the approval or
24 disapproval of contracts with units of local government or
25 nongovernmental agencies that desire to participate in the
26 community corrections plan; and

27 **(6) ensure that:**

28 **(A) all offenders placed on an electronic monitoring device**
29 **are supervised:**

30 **(i) directly by a community corrections program; or**

31 **(ii) through a contract between the community**
32 **corrections program and a contract agency (as defined**
33 **in IC 35-38-2.5-2.5); and**

34 **(B) a contract agency described in clause (A)(ii) is in**
35 **compliance with the local community corrections**
36 **standards.**

37 Before recommending approval of a contract, the advisory board must
38 determine that a program is capable of meeting the standards adopted
39 by the department under section 5 of this chapter.

40 (b) A community corrections advisory board shall do the following:

41 (1) Adopt bylaws for the conduct of its own business.

42 (2) Hold a regular meeting at least one (1) time every three (3)

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1 months and at other times as needed to conduct all necessary
 2 business. Dates of regular meetings shall be established at the first
 3 meeting of each year.
 4 (3) Comply with the public meeting and notice requirements
 5 under IC 5-14-1.5.
 6 (c) A community corrections advisory board may contain an office
 7 as designated by the county executive or, in a county having a
 8 consolidated city, by the city-county council.
 9 (d) Notwithstanding subsection (a)(4), the standards applied to a
 10 court alcohol and drug program or a drug court that provides services
 11 to a forensic diversion program under IC 11-12-3.7 must be the
 12 standards established under IC 12-23-14 or IC 12-23-14.5.
 13 SECTION 5. IC 11-12-2-4 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A county or
 15 group of counties seeking financial aid under this chapter must apply
 16 to the commissioner in a manner and form prescribed by the
 17 commissioner. The application must include a community corrections
 18 plan that has been approved by the community corrections board and
 19 the county executive or, in a county having a consolidated city, by the
 20 city-county council. No county may receive financial aid until its
 21 application is approved by the commissioner.
 22 (b) A community corrections plan must comply with rules adopted
 23 under section 5 of this chapter and must include:
 24 (1) a description of each program for which financial aid is
 25 sought;
 26 (2) the purpose, objective, administrative structure, staffing, and
 27 duration of the program;
 28 **(3) a method to evaluate each component of the program to**
 29 **determine the overall use of department approved best**
 30 **practices for the program;**
 31 ~~(3)~~ **(4)** the program's total operating budget, including all other
 32 sources of anticipated income;
 33 ~~(4)~~ **(5)** the amount of community involvement and client
 34 participation in the program;
 35 ~~(5)~~ **(6)** the location and description of facilities that will be used
 36 in the program; and
 37 ~~(6)~~ **(7)** the manner in which counties that jointly apply for
 38 financial aid under this chapter will operate a coordinated
 39 community corrections program.
 40 (c) A community corrections plan must be annually updated,
 41 approved by the county executive or, in a city having a consolidated
 42 city, by the city-county council, and submitted to the commissioner.

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1 (d) No amendment to or substantial modification of an approved
2 community corrections plan may be placed in effect until the
3 department and county executive, or in a county having a consolidated
4 city, the city-county council, have approved the amendment or
5 modification.

6 (e) A copy of the final plan as approved by the department shall be
7 made available to the board in a timely manner.

8 SECTION 6. IC 11-12-2-5 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The department
10 shall do the following:

11 (1) Provide consultation and technical assistance to counties to
12 aid in the development of community corrections plans.

13 (2) Provide training for community corrections personnel and
14 board members to the extent funds are available.

15 (3) Adopt under IC 4-22-2 rules governing application by
16 counties for financial aid under this chapter, including the content
17 of community corrections plans.

18 (4) Adopt under IC 4-22-2 rules governing the disbursement of
19 monies to a county and the county's certification of expenditures.

20 (5) Adopt under IC 4-22-2 minimum standards for the
21 establishment, operation, and evaluation of programs receiving
22 financial aid under this chapter. (These standards must be
23 sufficiently flexible to foster the development of new and
24 improved correctional practices.)

25 (6) Examine and either approve or disapprove applications for
26 financial aid. The department's approval or disapproval must be
27 based on this chapter and the rules adopted under this chapter.

28 (7) Keep the budget agency informed of the amount of
29 appropriation needed to adequately fund programs under this
30 chapter.

31 (8) Adopt under IC 4-22-2 a formula or other method of
32 determining a participating county's share of funds appropriated
33 for purposes of this chapter. This formula or method must be
34 approved by the budget agency before the formula is adopted and
35 must be designed to accurately reflect a county's correctional
36 needs and ability to pay.

37 (9) Keep counties informed of money appropriated for the
38 purposes of this chapter.

39 (10) Provide an approved training curriculum for community
40 corrections field officers.

41 **(11) Require community corrections programs to submit in**
42 **proposed budget requests an evaluation of the use of**

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department approved best practices for each community corrections program component.

- (b) The commissioner may do the following:
 - (1) Visit and inspect any program receiving financial aid under this chapter.
 - (2) Require a participating county or program to submit information or statistics pertinent to the review of applications and programs.
 - (3) Expend up to three percent (3%) of the money appropriated to the department for community correction grants to provide technical assistance, consultation, and training to counties and to monitor and evaluate program delivery.

(c) Notwithstanding any law prohibiting advance payments, the department of correction may advance grant money to a county or group of counties in order to assist a community corrections program. However, not more than twenty-five percent (25%) of the amount awarded to a county or group of counties may be paid in advance.

(d) The commissioner shall disburse no more funds to any county under this chapter than are required to fund the community corrections plan.

SECTION 7. IC 11-13-3-3, AS AMENDED BY P.L.173-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

- (1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
- (2) official reports of the person's history of criminality;
- (3) reports of earlier parole or probation experiences;

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- 1 (4) reports concerning the person's present commitment that are
- 2 relevant to the parole release determination;
- 3 (5) any relevant information submitted by or on behalf of the
- 4 person being considered; and
- 5 (6) such other relevant information concerning the person as may
- 6 be reasonably available.

7 (c) Unless the victim has requested in writing not to be notified, the
 8 department shall notify a victim of a felony (or the next of kin of the
 9 victim if the felony resulted in the death of the victim) or any witness
 10 involved in the prosecution of an offender imprisoned for the
 11 commission of a felony when the offender is:

- 12 (1) to be discharged from imprisonment;
- 13 (2) to be released on parole under IC 35-50-6-1;
- 14 (3) to have a parole release hearing under this chapter;
- 15 (4) to have a parole violation hearing;
- 16 (5) an escaped committed offender; or
- 17 (6) to be released from departmental custody under any temporary
- 18 release program administered by the department, including the
- 19 following:

20 (A) Placement on minimum security assignment to a program
 21 authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring
 22 periodic reporting to a designated official, including a
 23 regulated community assignment program.

24 (B) Assignment to a minimum security work release program.

25 (d) The department shall make the notification required under
 26 subsection (c):

- 27 (1) at least forty (40) days before a discharge, release, or hearing
- 28 occurs; and
- 29 (2) not later than twenty-four (24) hours after the escape of a
- 30 committed offender.

31 The department shall supply the information to a victim (or a next of
 32 kin of a victim in the appropriate case) and a witness at the address
 33 supplied to the department by the victim (or next of kin) or witness. A
 34 victim (or next of kin) is responsible for supplying the department with
 35 any change of address or telephone number of the victim (or next of
 36 kin).

37 (e) The probation officer conducting the presentence investigation
 38 shall inform the victim and witness described in subsection (c), at the
 39 time of the interview with the victim or witness, of the right of the
 40 victim or witness to receive notification from the department under
 41 subsection (c). The probation department for the sentencing court shall
 42 forward the most recent list of the addresses or telephone numbers, or

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1 both, of victims to the department of correction. The probation
 2 department shall supply the department with the information required
 3 by this section as soon as possible but not later than five (5) days from
 4 the receipt of the information from the victim. A victim (or next of kin)
 5 is responsible for supplying the department with the correct address
 6 and telephone number of the victim (or next of kin).

7 (f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not
 8 have access to the name and address of a victim and a witness. Upon
 9 the filing of a motion by any person requesting or objecting to the
 10 release of victim information, witness information, or both that is
 11 retained by the department, the court shall review the information that
 12 is the subject of the motion in camera before ruling on the motion.

13 (g) The notice required under subsection (c) must specify whether
 14 the prisoner is being discharged, is being released on parole, is being
 15 released on lifetime parole, is having a parole release hearing, is having
 16 a parole violation hearing, or has escaped. The notice must contain the
 17 following information:

- 18 (1) The name of the prisoner.
- 19 (2) The date of the offense.
- 20 (3) The date of the conviction.
- 21 (4) The felony of which the prisoner was convicted.
- 22 (5) The sentence imposed.
- 23 (6) The amount of time served.
- 24 (7) The date and location of the interview (if applicable).

25 (h) The parole board shall adopt rules under IC 4-22-2 and make
 26 available to offenders the criteria considered in making parole release
 27 determinations. The criteria must include the:

- 28 (1) nature and circumstances of the crime for which the offender
 29 is committed;
- 30 (2) offender's prior criminal record;
- 31 (3) offender's conduct and attitude during the commitment; and
- 32 (4) offender's parole plan.

33 (i) The hearing prescribed by this section may be conducted in a
 34 informal manner without regard to rules of evidence. In connection
 35 with the hearing, however:

- 36 (1) reasonable, advance written notice, including the date, time,
 37 and place of the hearing shall be provided to the person being
 38 considered;
- 39 (2) the person being considered shall be given access, in accord
 40 with IC 11-8-5, to records and reports considered by the parole
 41 board in making its parole release decision;
- 42 (3) the person being considered may appear, speak in the person's

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1 own behalf, and present documentary evidence;
 2 (4) irrelevant, immaterial, or unduly repetitious evidence shall be
 3 excluded; and
 4 (5) a record of the proceeding, to include the results of the parole
 5 board's investigation, notice of the hearing, and evidence adduced
 6 at the hearing, shall be made and preserved.

7 (j) If parole is denied, the parole board shall give the person written
 8 notice of the denial and the reasons for the denial. The parole board
 9 may not parole a person if it determines that there is substantial reason
 10 to believe that the person:

11 (1) will engage in further specified criminal activity; or
 12 (2) will not conform to appropriate specified conditions of parole.

13 (k) If parole is denied, the parole board shall conduct another parole
 14 release hearing not earlier than five (5) years after the date of the
 15 hearing at which parole was denied. However, the board may conduct
 16 a hearing earlier than five (5) years after denial of parole if the board:

17 (1) finds that special circumstances exist for the holding of a
 18 hearing; and
 19 (2) gives reasonable notice to the person being considered for
 20 parole.

21 (l) The parole board may parole a person who is outside Indiana on
 22 a record made by the appropriate authorities of the jurisdiction in
 23 which that person is imprisoned.

24 (m) If the board is considering the release on parole of an offender
 25 who is serving a sentence of life in prison, a determinate term of
 26 imprisonment of at least ten (10) years, or an indeterminate term of
 27 imprisonment with a minimum term of at least ten (10) years, in
 28 addition to the investigation required under subsection (b), **except as**
 29 **provided in subsection (n)**, the board ~~shall~~ **may** order and consider a
 30 community investigation, which ~~must~~ **may** include an investigation and
 31 report that substantially reflects the attitudes and opinions of:

32 (1) the community in which the crime committed by the offender
 33 occurred;
 34 (2) law enforcement officers who have jurisdiction in the
 35 community in which the crime occurred;
 36 (3) the victim of the crime committed by the offender, or if the
 37 victim is deceased or incompetent for any reason, the victim's
 38 relatives or friends; and
 39 (4) friends or relatives of the offender.

40 If the board reconsiders for release on parole an offender who was
 41 previously released on parole and whose parole was revoked under
 42 section 10 of this chapter, the board may use a community investigation

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1 prepared for an earlier parole hearing to comply with this subsection.
2 However, the board shall accept and consider any supplements or
3 amendments to any previous statements from the victim or the victim's
4 relatives or friends.

5 (n) **The board shall conduct the community investigation**
6 **described in subsection (m) if:**

- 7 (1) **the person is not being placed on parole for the first time;**
- 8 (2) **the person was convicted of a crime of violence (as defined**
9 **in IC 35-50-1-2);**
- 10 (3) **the person is a sex offender (as defined in IC 11-8-8-4.5);**
11 **or**
- 12 (4) **a person who in the six (6) months before being placed on**
13 **parole has violated a rule of the department of correction or**
14 **a rule of the penal facility in which the person is imprisoned.**

15 (o) As used in this section, "victim" means a person who has
16 suffered direct harm as a result of a violent crime (as defined in
17 IC 5-2-6.1-8).

18 SECTION 8. IC 11-13-3-4, AS AMENDED BY P.L.111-2009,
19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2010]: Sec. 4. (a) A condition to remaining on parole is that
21 the parolee not commit a crime during the period of parole.

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

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

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

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

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

- 42 (1) consider:

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- 1 (A) the residence of the parolee prior to the parolee's
- 2 incarceration; and
- 3 (B) the parolee's place of employment; and
- 4 (2) assign the parolee to reside in the county where the parolee
- 5 resided prior to the parolee's incarceration unless assignment on
- 6 this basis would be detrimental to the parolee's successful
- 7 reintegration into the community.
- 8 (f) As a condition of parole, the parole board may require the
- 9 parolee to:
 - 10 (1) periodically undergo a laboratory chemical test (as defined in
 - 11 IC 14-15-8-1) or series of tests to detect and confirm the presence
 - 12 of a controlled substance (as defined in IC 35-48-1-9); and
 - 13 (2) have the results of any test under this subsection reported to
 - 14 the parole board by the laboratory.
- 15 The parolee is responsible for any charges resulting from a test
- 16 required under this subsection. However, a person's parole may not be
- 17 revoked on the basis of the person's inability to pay for a test under this
- 18 subsection.
- 19 (g) As a condition of parole, the parole board:
 - 20 (1) may require a parolee who is a sex offender (as defined in
 - 21 IC 11-8-8-4.5) to:
 - 22 (A) participate in a treatment program for sex offenders
 - 23 approved by the parole board; and
 - 24 (B) avoid contact with any person who is less than sixteen (16)
 - 25 years of age unless the parolee:
 - 26 (i) receives the parole board's approval; or
 - 27 (ii) successfully completes the treatment program referred to
 - 28 in clause (A); and
 - 29 (2) shall:
 - 30 (A) require a parolee who is a sex or violent offender (as
 - 31 defined in IC 11-8-8-5) to register with a local law
 - 32 enforcement authority under IC 11-8-8;
 - 33 (B) prohibit a parolee who is a sex offender from residing
 - 34 within one thousand (1,000) feet of school property (as defined
 - 35 in IC 35-41-1-24.7) for the period of parole, unless the sex
 - 36 offender obtains written approval from the parole board;
 - 37 (C) prohibit a parolee who is a sex offender convicted of a sex
 - 38 offense (as defined in IC 35-38-2-2.5) from residing within
 - 39 one (1) mile of the victim of the sex offender's sex offense
 - 40 unless the sex offender obtains a waiver under IC 35-38-2-2.5;
 - 41 (D) prohibit a parolee who is a sex offender from owning,
 - 42 operating, managing, being employed by, or volunteering at

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- 1 any attraction designed to be primarily enjoyed by children
- 2 less than sixteen (16) years of age;
- 3 (E) require a parolee who is a sex offender to consent:
 - 4 (i) to the search of the sex offender's personal computer at
 - 5 any time; and
 - 6 (ii) to the installation on the sex offender's personal
 - 7 computer or device with Internet capability, at the sex
 - 8 offender's expense, of one (1) or more hardware or software
 - 9 systems to monitor Internet usage; and
- 10 (F) prohibit the sex offender from:
 - 11 (i) accessing or using certain web sites, chat rooms, or
 - 12 instant messaging programs frequented by children; and
 - 13 (ii) deleting, erasing, or tampering with information on the
 - 14 sex offender's personal computer with intent to conceal an
 - 15 activity prohibited by item (i).

16 The parole board may not grant a sexually violent predator (as defined
 17 in IC 35-38-1-7.5) or a sex offender who is an offender against children
 18 under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the
 19 parole board allows the sex offender to reside within one thousand
 20 (1,000) feet of school property under subdivision (2)(B), the parole
 21 board shall notify each school within one thousand (1,000) feet of the
 22 sex offender's residence of the order.

23 (h) The address of the victim of a parolee who is a sex offender
 24 convicted of a sex offense (as defined in IC 35-38-2-2.5) is
 25 confidential, even if the sex offender obtains a waiver under
 26 IC 35-38-2-2.5.

27 (i) As a condition of parole, the parole board may require a parolee
 28 to participate in a reentry court program.

29 (j) **If the department determines sufficient funding is available,**
 30 as a condition of parole the parole board:

- 31 (1) shall require a parolee who is a sexually violent predator
- 32 under IC 35-38-1-7.5; and
- 33 (2) may require a parolee who is a sex or violent offender (as
- 34 defined in IC 11-8-8-5);

35 to wear a monitoring device (as described in IC 35-38-2.5-3) that can
 36 transmit information twenty-four (24) hours each day regarding a
 37 person's precise location.

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

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1 (l) As a condition of parole, the parole board may prohibit a parolee
2 convicted of an offense under IC 35-46-3 from owning, harboring, or
3 training an animal, and, if the parole board prohibits a parolee
4 convicted of an offense under IC 35-46-3 from having direct or indirect
5 contact with an individual, the parole board may also prohibit the
6 parolee from having direct or indirect contact with any animal
7 belonging to the individual.

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

14 SECTION 9. IC 27-10-2-3 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) An undertaking
16 is valid if it states:

- 17 (1) the court where the defendant is to appear;
- 18 (2) the amount of the bail; and
- 19 (3) that it was made before an official legally authorized to take
20 the bond.

- 21 (b) A surety remains liable on an undertaking despite:
 - 22 (1) any lack of the surety's qualifications as required by section 4
23 of this chapter;
 - 24 (2) any other agreement that is expressed in the undertaking;
 - 25 (3) any failure of the defendant to join in the undertaking; or
 - 26 (4) any other defect of form or record, or any other irregularity,
27 except as to matters covered by subsection (a).

28 (c) Any undertaking written after August 31, 1985, shall expire
29 thirty-six (36) months after it is posted for the release of a defendant
30 from custody. This section does not apply to cases in which a bond has
31 been declared to be forfeited ~~or in which the defendant is a fugitive~~
32 ~~from the jurisdiction after thirty-six (36) months. and the surety and~~
33 ~~bail agent have been notified as described in section 12 of this~~
34 ~~chapter.~~

35 SECTION 10. IC 27-10-2-8 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) The court shall
37 give the bail agent or insurer legal **written** notice of the defendant's
38 trial or hearing **for purposes of entering a plea** at least seventy-two
39 (72) hours before the defendant's appearance is required unless the
40 appearance is scheduled within seventy-two (72) hours from the
41 execution of the bond.

42 (b) The defendant's failure to appear constitutes a breach of the

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1 undertaking. The court before which the cause is pending shall make
2 a record of the breach at which time section 12 of this chapter then
3 applies.

4 SECTION 11. IC 27-10-2-12 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) **Only** if a
6 defendant does not appear as provided in the bond:

- 7 (1) the court shall:
 - 8 (A) issue a warrant for the defendant's arrest; and
 - 9 (B) order the bail agent and the surety to surrender the
10 defendant to the court immediately;
- 11 (2) the clerk shall, **less than thirty (30) days after the**
12 **defendant's failure to appear**, mail notice of the order to both:
 - 13 (A) the bail agent; and
 - 14 (B) the surety;
- 15 at each of the addresses indicated in the bonds; and
- 16 (3) if the defendant later is arrested or otherwise appears:
 - 17 (A) the court shall order that the surety be released from the
18 bond; and
 - 19 (B) after the court issues an order under clause (A), the
20 surety's original undertaking shall be reinstated if the surety
21 files a written request for the reinstatement of the undertaking
22 with the court.

23 This subsection may not be construed to prevent a court from revoking
24 or resetting bail.

- 25 (b) The bail agent or surety must:
 - 26 (1) produce the defendant; or
 - 27 (2) prove within three hundred sixty-five (365) days:
 - 28 (A) that the appearance of the defendant was prevented:
 - 29 (i) by the defendant's illness or death;
 - 30 (ii) because the defendant was at the scheduled time of
31 appearance or currently is in the custody of the United
32 States, a state, or a political subdivision of the United States
33 or a state; **or**
 - 34 (iii) because the required notice was not given; **or**
 - 35 **(iv) because authorities have refused to extradite the**
36 **defendant, by a preponderance of the evidence;** and
 - 37 (B) the defendant's absence was not with the consent or
38 connivance of the sureties.

39 (c) If the bail agent or surety does not comply with the terms of
40 subsection (b) within one hundred twenty (120) days after the mailing
41 of the notice required under subsection (a)(2), a late surrender fee shall
42 be assessed against the bail agent or surety as follows:

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1 (1) If compliance occurs more than one hundred twenty (120)
2 days but not more than one hundred eighty (180) days after the
3 mailing of notice, the late surrender fee is twenty percent (20%)
4 of the face value of the bond.

5 (2) If compliance occurs more than one hundred eighty (180) days
6 but not more than two hundred ten (210) days after the mailing of
7 notice, the late surrender fee is thirty percent (30%) of the face
8 value of the bond.

9 (3) If compliance occurs more than two hundred ten (210) days
10 but not more than two hundred forty (240) days after the mailing
11 of notice, the late surrender fee is fifty percent (50%) of the face
12 value of the bond.

13 (4) If compliance occurs more than two hundred forty (240) days
14 but not more than three hundred sixty-five (365) days after the
15 mailing of notice, the late surrender fee is eighty percent (80%)
16 of the face value of the bond.

17 (5) If the bail agent or surety does not comply with the terms of
18 subsection (b) within three hundred sixty-five (365) days of the
19 mailing of notice required under subsection (a)(2), the late
20 surrender fee is eighty percent (80%) of the face value of the
21 bond.

22 All late surrender fees are due as of the date of compliance with
23 subsection (b) or three hundred sixty-five (365) days after the mailing
24 of notice required under subsection (a)(2), whichever is earlier, and
25 shall be paid by the surety when due. If the surety fails to pay, then the
26 late surrender fees shall be paid by the commissioner as provided in
27 subsection (f).

28 (d) If the bail agent or surety does not comply with the terms of
29 subsection (b) within three hundred sixty-five (365) days of the mailing
30 of notice required by subsection (a)(2), the court shall declare forfeited
31 an amount equal to twenty percent (20%) of the face value of the bond.
32 The court shall immediately enter judgment on the forfeiture, without
33 pleadings and without change of judge or change of venue, and assess
34 against the bail agent or surety all actual costs resulting from the
35 defendant's failure to appear. These costs include jury fees, witness
36 fees, and any other documented costs incurred by the court.

37 (e) Proceedings relative to the bond, forfeiture of a bond, judgment
38 on the forfeiture, execution of judgment, or stay of proceedings shall
39 be in the court in which the bond was posted. Costs and late surrender
40 fee assessed against a bail agent or surety under subsection (c) shall be
41 satisfied without further order of the court as provided in subsection (f).
42 The court may waive the late surrender fee or extend the period for

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1 payment beyond the statutorily permitted period, or both, if the
 2 following conditions are met:

3 (1) A written request is filed with the court and the prosecutor.
 4 (2) The surety or bail agent provides evidence satisfactory to the
 5 court that diligent efforts were made to locate the defendant.

6 (f) In the case of an insurer, if the fees, costs, or judgment is not
 7 paid, then the clerk shall mail the notice to the commissioner. The
 8 commissioner shall:

9 (1) within ten (10) days of receipt of the notice forward a copy by
 10 certified mail to the insurer;
 11 (2) forty-five (45) days after receipt of the notice from the clerk,
 12 if the commissioner has not been notified by the clerk that the
 13 fees or judgment or both have been paid, pay the late surrender
 14 fee assessment, costs, and any judgment of forfeiture ordered by
 15 the court from funds the insurer has on deposit with the
 16 department of insurance;
 17 (3) upon paying the assessment, costs, and judgment, if any, from
 18 funds on deposit, immediately revoke the license of the insurer,
 19 if the satisfaction causes the deposit remaining to be less than the
 20 amount required by this article; and
 21 (4) within ten (10) days after revoking a license, notify the insurer
 22 and the insurer's agents and the clerk of each county in Indiana of
 23 the revocation and the insurer shall be prohibited from conducting
 24 a bail bond business in Indiana until the deposit has been
 25 replenished.

26 (g) The notice mailed by the clerk to the commissioner pursuant to
 27 the terms of subsection (f) shall include:

28 (1) the date on which the defendant originally failed to appear as
 29 provided in the bond;
 30 (2) the date of compliance with subsection (b), if compliance was
 31 achieved within three hundred sixty-five (365) days after the
 32 mailing of the notice required by subsection (a)(2);
 33 (3) the amount of the bond;
 34 (4) the dollar amount of the late surrender fee due;
 35 (5) the amount of costs resulting from the defendant's failure to
 36 appear; and
 37 (6) if applicable, the dollar amount of the judgment of forfeiture
 38 entered by the court.

39 (h) Any surety on a bond may appeal to the court of appeals as in
 40 other civil cases without moving for a new trial, and on the appeal the
 41 evidence, if any, shall be reviewed.

42 (i) Fifty percent (50%) of the late surrender fees collected under this

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1 chapter shall be deposited in the police pension trust fund established
 2 under IC 36-8-10-12 and the remaining fifty percent (50%) shall be
 3 deposited in the county extradition fund established under IC 35-33-14.

4 SECTION 12. IC 35-33-8-7 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) If a defendant:

6 (1) was admitted to bail under section 3.2(a)(2) of this chapter;
 7 and

8 (2) has failed to appear before the court as ordered;

9 the court shall, **except as provided in subsection (b) or section 8(b)**
 10 **of this chapter, declare the bond forfeited not earlier than one**
 11 **hundred twenty (120) days after the defendant's failure to appear**
 12 **and** issue a warrant for the defendant's arrest.

13 (b) In a criminal case, if the court having jurisdiction over the
 14 criminal case receives written notice of a pending civil action or
 15 unsatisfied judgment against the criminal defendant arising out of the
 16 same transaction or occurrence forming the basis of the criminal case,
 17 funds deposited with the clerk of the court under section 3.2(a)(2) of
 18 this chapter may not be declared forfeited by the court, and the court
 19 shall order the deposited funds to be held by the clerk. If there is an
 20 entry of final judgment in favor of the plaintiff in the civil action, and
 21 if the deposit and the bond are subject to forfeiture, the criminal court
 22 shall order payment of all or any part of the deposit to the plaintiff in
 23 the action, as is necessary to satisfy the judgment. The court shall then
 24 order the remainder of the deposit, if any, and the bond forfeited.

25 (c) Any proceedings concerning the bond, or its forfeiture,
 26 judgment, or execution of judgment, shall be held in the court that
 27 admitted the defendant to bail.

28 (d) After a bond has been forfeited under subsection (a) or (b), the
 29 clerk shall mail notice of forfeiture to the defendant. In addition, unless
 30 the court finds that there was justification for the defendant's failure to
 31 appear, the court shall immediately enter judgment, without pleadings
 32 and without change of judge or change of venue, against the defendant
 33 for the amount of the bail bond, and the clerk shall record the
 34 judgment.

35 (e) If a bond is forfeited and the court has entered a judgment under
 36 subsection (d), the clerk shall transfer to the state common school fund:

37 (1) any amount remaining on deposit with the court (less the fees
 38 retained by the clerk); and

39 (2) any amount collected in satisfaction of the judgment.

40 (f) The clerk shall return a deposit, less the administrative fee, made
 41 under section 3.2(a)(2) of this chapter to the defendant, if the defendant
 42 appeared at trial and the other critical stages of the legal proceedings.

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1 SECTION 13. IC 35-38-1-5 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) When the
 3 defendant appears for sentencing, the court shall inform the defendant
 4 of the verdict of the jury or the finding of the court. The court shall
 5 afford counsel for the defendant an opportunity to speak on behalf of
 6 the defendant. The defendant may also make a statement personally in
 7 the defendant's own behalf and, before pronouncing sentence, the court
 8 shall ask the defendant whether the defendant wishes to make such a
 9 statement. Sentence shall then be pronounced, unless a sufficient cause
 10 is alleged or appears to the court for delay in sentencing.

11 (b) A court that sentences a person to a term of imprisonment shall
 12 include the total costs of incarceration in the sentencing order. The
 13 court may not consider Class I credit under IC 35-50-6-3 in the
 14 calculation of the total costs of incarceration.

15 SECTION 14. IC 35-38-2.5-2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this
 17 chapter, "home" means:

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

26 The term includes a hospital, health care facility, hospice, group home,
 27 maternity home, residential treatment facility, and boarding house. The
 28 term does not include a public correctional facility, or the residence of
 29 another person who is not part of the social unit formed by the
 30 offender's immediate family.

31 SECTION 15. IC 35-38-2.6-4.2 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2010]: Sec. 4.2. (a) A community corrections
 34 program shall establish written criteria and procedures for
 35 determining if an offender or alleged offender is eligible for direct
 36 placement supervision under this chapter.

37 (b) The criteria and procedures established under subsection (a)
 38 must establish a record keeping system that allows the department
 39 or community corrections program to quickly determine if an
 40 offender or alleged offender is in violation of the terms of a direct
 41 placement order issued under this chapter.

42 (c) A community corrections program charged by a court with

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1 supervision of offenders and alleged offenders ordered to be placed
2 directly in a community corrections program under this chapter
3 shall provide all law enforcement agencies, including any contract
4 agency (as defined in IC 35-38-2.5-2.5), having jurisdiction in the
5 place where a community corrections program is located a list of
6 offenders and alleged offenders under direct placement
7 supervision. The list must include the following information about
8 each offender and alleged offender:

- 9 (1) The offender's name, any known aliases, and the location
- 10 of the offender's direct placement under this chapter.
- 11 (2) The crime for which the offender was convicted.
- 12 (3) The date the offender's direct placement expires.
- 13 (4) The name, address, and telephone number of the
- 14 offender's supervising community corrections program
- 15 officer for direct placement under this chapter.
- 16 (5) An indication of whether the offender is a violent offender.

17 (d) Except as provided in IC 35-28-2.5-6(1), a community
18 corrections program charged by a court with supervision of
19 offenders and alleged offenders ordered to undergo direct
20 placement under this chapter shall, at the beginning of a period of
21 the direct placement, set any monitoring device (as defined in
22 IC 35-38-2.5-3) and surveillance equipment to minimize the
23 possibility that the offender or alleged offender may enter another
24 residence or structure without the detection of a violation.

25 (e) A community corrections program charged by a court with
26 supervision of offenders and alleged offenders ordered to undergo
27 direct placement under this chapter shall:

- 28 (1) maintain or contract with a contract agency to maintain
- 29 constant supervision of each offender and alleged offender as
- 30 described in subsection (f); and
- 31 (2) have adequate staff available twenty-four (24) hours each
- 32 day to respond if an offender or alleged offender violates the
- 33 conditions of the direct placement order under this chapter.

34 A community corrections program may contract with a contract
35 agency under this subsection only if the contract agency is able to
36 comply with subsection (f).

- 37 (f) A contract agency:
 - 38 (1) that maintains supervision of an offender or alleged
 - 39 offender under subsection (e)(1) shall follow the rules set by
 - 40 the local community corrections advisory board as a part of
 - 41 community corrections program direct placement written
 - 42 criteria and procedures; and

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1 (2) shall notify the contracting community corrections
 2 program within one (1) hour if the offender or alleged
 3 offender violates the conditions of the direct placement order.
 4 However, if a shorter notification time is required by the
 5 community corrections program, a community corrections
 6 advisory board must require a contract agency to comply
 7 with the shorter notification requirement for a direct
 8 placement order violation as if the offender were serving a
 9 direct placement order as part of a community corrections
 10 program.

11 (g) A community corrections program or contract agency
 12 charged by a court with supervision of an offender or alleged
 13 offender placed under direct placement under this chapter shall
 14 cause a local law enforcement agency or contract agency described
 15 in this section to be the initial agency contacted upon determining
 16 that the offender is in violation of a direct placement order.

17 SECTION 16. IC 35-38-2.6-4.5 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. If a court places a
 19 person on home detention as part of a community corrections program,
 20 the placement must comply with all applicable provisions in
 21 IC 35-38-2.5. including the supervision, monitoring, and unauthorized
 22 absence provisions of ~~IC 35-38-2.5-10, IC 35-38-2.5-12, and~~
 23 ~~IC 35-38-2.5-13.~~

24 SECTION 17. IC 35-38-2.6-6 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) As used in this
 26 subsection, "home" means the actual living area of the temporary or
 27 permanent residence of a person. ~~The term does not include a:~~

- 28 (1) hospital;
- 29 (2) health care facility;
- 30 (3) hospice;
- 31 (4) group home;
- 32 (5) maternity home;
- 33 (6) residential treatment facility;
- 34 (7) boarding house; or
- 35 (8) public correctional facility.

36 A person who is placed in a community corrections program under this
 37 chapter is entitled to earn credit time under IC 35-50-6. ~~unless the~~
 38 ~~person is placed in the person's home.~~

39 (b) A person who is placed in a community corrections program
 40 under this chapter may be deprived of earned credit time as provided
 41 under rules adopted by the department of correction under IC 4-22-2.

42 SECTION 18. IC 35-50-6-1, AS AMENDED BY P.L.216-2007,

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1 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2010]: Sec. 1. (a) Except as provided in subsection (d) or (e),
3 when a person imprisoned for a felony completes the person's fixed
4 term of imprisonment, less the credit time the person has earned with
5 respect to that term, the person shall be:

6 (1) released on parole for not more than twenty-four (24) months,
7 as determined by the parole board, **unless:**

8 (A) **the person is being placed on parole for the first time;**

9 (B) **the person is not being placed on parole for a**
10 **conviction for a crime of violence (as defined in**
11 **IC 35-50-1-2);**

12 (C) **the person is not a sex offender (as defined in**
13 **IC 11-8-8-4.5); and**

14 (D) **in the six (6) months prior to being placed on parole,**
15 **the person has not violated a rule of the department of**
16 **correction or a rule of the penal facility in which the**
17 **person is imprisoned;**

18 (2) discharged upon a finding by the committing court that the
19 person was assigned to a community transition program and may
20 be discharged without the requirement of parole; or

21 (3) released to the committing court if the sentence included a
22 period of probation.

23 **A person described in subdivision (1) shall be released on parole**
24 **for not more than twelve (12) months, as determined by the parole**
25 **board.**

26 (b) This subsection does not apply to a person described in
27 subsection (d), (e), or (f). A person released on parole remains on
28 parole from the date of release until the person's fixed term expires,
29 unless the person's parole is revoked or the person is discharged from
30 that term by the parole board. In any event, if the person's parole is not
31 revoked, the parole board shall discharge the person after the period set
32 under subsection (a) or the expiration of the person's fixed term,
33 whichever is shorter.

34 (c) A person whose parole is revoked shall be imprisoned for all or
35 part of the remainder of the person's fixed term. However, the person
36 shall again be released on parole when the person completes that
37 remainder, less the credit time the person has earned since the
38 revocation. The parole board may reinstate the person on parole at any
39 time after the revocation.

40 (d) This subsection does not apply to a person who is a sexually
41 violent predator under IC 35-38-1-7.5. When a sex offender (as defined
42 in IC 11-8-8-4.5) completes the sex offender's fixed term of

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1 imprisonment, less credit time earned with respect to that term, the sex
2 offender shall be placed on parole for not more than ten (10) years.

3 (e) This subsection applies to a person who:

4 (1) is a sexually violent predator under IC 35-38-1-7.5;

5 (2) has been convicted of murder (IC 35-42-1-1); or

6 (3) has been convicted of voluntary manslaughter (IC 35-42-1-3).

7 When a person described in this subsection completes the person's
8 fixed term of imprisonment, less credit time earned with respect to that
9 term, the person shall be placed on parole for the remainder of the
10 person's life.

11 (f) This subsection applies to a parolee in another jurisdiction who
12 is a person described in subsection (e) and whose parole supervision is
13 transferred to Indiana from another jurisdiction. In accordance with
14 IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and
15 Parolees) and rules adopted under Article VII (d)(8) of the Interstate
16 Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who
17 is a person described in subsection (e) and whose parole supervision is
18 transferred to Indiana is subject to the same conditions of parole as a
19 person described in subsection (e) who was convicted in Indiana,
20 including:

21 (1) lifetime parole (as described in subsection (e)); and

22 (2) the requirement that the person wear a monitoring device (as
23 described in IC 35-38-2.5-3) that can transmit information
24 twenty-four (24) hours each day regarding a person's precise
25 location, if applicable.

26 (g) If a person being supervised on lifetime parole as described in
27 subsection (e) is also required to be supervised by a court, a probation
28 department, a community corrections program, a community transition
29 program, or another similar program upon the person's release from
30 imprisonment, the parole board may:

31 (1) supervise the person while the person is being supervised by
32 the other supervising agency; or

33 (2) permit the other supervising agency to exercise all or part of
34 the parole board's supervisory responsibility during the period in
35 which the other supervising agency is required to supervise the
36 person, if supervision by the other supervising agency will be, in
37 the opinion of the parole board:

38 (A) at least as stringent; and

39 (B) at least as effective;

40 as supervision by the parole board.

41 (h) The parole board is not required to supervise a person on
42 lifetime parole during any period in which the person is imprisoned.

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1 However, upon the person's release from imprisonment, the parole
2 board shall recommence its supervision of a person on lifetime parole.
3 (i) If a court orders the parole board to place a sexually violent
4 predator whose sentence does not include a commitment to the
5 department of correction on lifetime parole under IC 35-38-1-29, the
6 parole board shall place the sexually violent predator on lifetime parole
7 and supervise the person in the same manner in which the parole board
8 supervises a sexually violent predator on lifetime parole whose
9 sentence includes a commitment to the department of correction.
10 SECTION 19. IC 35-50-6-5, AS AMENDED BY P.L.80-2008,
11 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2010]: Sec. 5. (a) A person may, with respect to the same
13 transaction, be deprived of any part of the credit time the person has
14 earned for any of the following:
15 (1) A violation of one (1) or more rules of the department of
16 correction.
17 (2) If the person is not committed to the department, a violation
18 of one (1) or more rules of the penal facility in which the person
19 is imprisoned.
20 (3) A violation of one (1) or more rules or conditions of a:
21 (A) community transition program; **or**
22 (B) **community corrections program.**
23 (4) If a court determines that a civil claim brought by the person
24 in a state or an administrative court is frivolous, unreasonable, or
25 groundless.
26 (5) If the person is a sex offender (as defined in IC 11-8-8-5) and
27 refuses to register before being released from the department as
28 required under IC 11-8-8-7.
29 (6) If the person is a sex offender (as defined in IC 11-8-8-5) and
30 refuses to participate in a sex offender treatment program
31 specifically offered to the sex offender by the department of
32 correction while the person is serving a period of incarceration
33 with the department of correction.
34 However, the violation of a condition of parole or probation may not be
35 the basis for deprivation. Whenever a person is deprived of credit time,
36 the person may also be reassigned to Class II (if the person is not a
37 credit restricted felon) or Class III.
38 (b) Before a person may be deprived of earned credit time, the
39 person must be granted a hearing to determine the person's guilt or
40 innocence and, if found guilty, whether deprivation of earned credit
41 time is an appropriate disciplinary action for the violation. In
42 connection with the hearing, the person is entitled to the procedural

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1 safeguards listed in section 4(e) of this chapter. The person may waive
2 the person's right to the hearing.

3 (c) Any part of the credit time of which a person is deprived under
4 this section may be restored.

5 SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE
6 JULY 1, 2010]: IC 11-12-2-9; IC 35-41-1-26.8.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 340, 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 5, line 19, delete "except as provided in subsection (j),".

Page 5, line 20, reset in roman "twenty-four (24)".

Page 5, line 20, delete "twelve (12)".

Page 5, line 21, delete ";" and insert ", unless:

(A) the person is being placed on parole for the first time;

(B) the person is not being placed on parole for a conviction for a crime of violence (as defined in IC 35-50-1-2);

(C) the person is not a sex offender (as defined in IC 11-8-8-4.5); and

(D) in the six (6) months prior to being placed on parole, the person has not violated a rule of the department of correction or a rule of the penal facility in which the person is imprisoned;".

Page 5, between lines 26 and 27, begin a new line blocked left and insert:

"A person described in subdivision (1) shall be released on parole for not more than twelve (12) months, as determined by the parole board."

Page 7, delete lines 11 through 15.

and when so amended that said bill do pass.

(Reference is to SB 340 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 340, 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:

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

"SECTION 1. IC 2-5.5-2-5, AS ADDED BY P.L.16-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. The committee shall do the following:

(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

(A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.

(B) The deterrent effect a particular classification may have on the commission of the offense.

(C) The current incidence of the offense in Indiana.

(D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:

(A) The nature and characteristics of the offense.

(B) The severity of the offense in relation to other offenses.

(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.

(D) The number of the defendant's prior convictions.

(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.

(F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs

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for the purpose of:

- (A) standardizing procedures and establishing rules for the supervision of home detainees; and
 - (B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.
- (4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.
- (5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.
- (6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.
- (7) Recommend a comprehensive community corrections strategy based on the following:
- (A) A review of existing community corrections programs.
 - (B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.
 - (C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.
 - (D) The identification of necessary changes in state oversight and coordination of community corrections programs.
 - (E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.
 - (F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.
- (8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.
- (9) Evaluate the use of faith based organizations as an alternative to incarceration.
- (10) Study issues related to sex offenders, including:
- (A) lifetime parole;
 - (B) GPS or other electronic monitoring;
 - (C) a classification system for sex offenders;
 - (D) recidivism; and
 - (E) treatment.
- (11) Study and make recommendations regarding whether**

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individuals on parole should be eligible to receive credit time to potentially shorten their period of parole.

SECTION 2. IC 11-11-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. **(a) This chapter applies to persons:**

- (1) placed in a community corrections program; or**
- (2) assigned to a community transition program.**

(b) This chapter does not apply to persons released on parole.

SECTION 3. IC 11-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system and providing effective alternatives to imprisonment at the state level, the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections programs. Appropriations intended for this purpose may not be used by the department for any other purpose. Money appropriated to the department of correction for the purpose of making grants under this chapter and ~~charges made against a county~~ **any financial aid payments suspended** under section ~~9~~; **6 of this chapter** do not revert to the state general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants under this chapter.

(b) The commissioner shall give priority in issuing community corrections grants to programs that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities.

SECTION 4. IC 11-12-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A community corrections advisory board shall:

- (1) formulate:
 - (A) the community corrections plan and the application for financial aid required by section 4 of this chapter; and
 - (B) the forensic diversion program plan under IC 11-12-3.7;
- (2) observe and coordinate community corrections programs in the county;
- (3) make an annual report to the county fiscal body, county executive, or, in a county having a consolidated city, the city-county council, containing an evaluation of the effectiveness of programs receiving financial aid under this chapter and recommendations for improvement, modification, or discontinuance of these programs;

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(4) ensure that programs receiving financial aid under this chapter comply with the standards adopted by the department under section 5 of this chapter; ~~and~~

(5) recommend to the county executive or, in a county having a consolidated city, to the city-county council, the approval or disapproval of contracts with units of local government or nongovernmental agencies that desire to participate in the community corrections plan; **and**

(6) ensure that:

(A) all offenders placed on an electronic monitoring device are supervised:

- (i) directly by a community corrections program; or**
- (ii) through a contract between the community corrections program and a contract agency (as defined in IC 35-38-2.5-2.5); and**

(B) a contract agency described in clause (A)(ii) is in compliance with the local community corrections standards.

Before recommending approval of a contract, the advisory board must determine that a program is capable of meeting the standards adopted by the department under section 5 of this chapter.

(b) A community corrections advisory board shall do the following:

- (1) Adopt bylaws for the conduct of its own business.
- (2) Hold a regular meeting at least one (1) time every three (3) months and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established at the first meeting of each year.
- (3) Comply with the public meeting and notice requirements under IC 5-14-1.5.

(c) A community corrections advisory board may contain an office as designated by the county executive or, in a county having a consolidated city, by the city-county council.

(d) Notwithstanding subsection (a)(4), the standards applied to a court alcohol and drug program or a drug court that provides services to a forensic diversion program under IC 11-12-3.7 must be the standards established under IC 12-23-14 or IC 12-23-14.5.

SECTION 5. IC 11-12-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A county or group of counties seeking financial aid under this chapter must apply to the commissioner in a manner and form prescribed by the commissioner. The application must include a community corrections plan that has been approved by the community corrections board and

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the county executive or, in a county having a consolidated city, by the city-county council. No county may receive financial aid until its application is approved by the commissioner.

(b) A community corrections plan must comply with rules adopted under section 5 of this chapter and must include:

- (1) a description of each program for which financial aid is sought;
- (2) the purpose, objective, administrative structure, staffing, and duration of the program;
- (3) a method to evaluate each component of the program to determine the overall use of department approved best practices for the program;**
- ~~(3)~~ (4) the program's total operating budget, including all other sources of anticipated income;
- ~~(4)~~ (5) the amount of community involvement and client participation in the program;
- ~~(5)~~ (6) the location and description of facilities that will be used in the program; and
- ~~(6)~~ (7) the manner in which counties that jointly apply for financial aid under this chapter will operate a coordinated community corrections program.

(c) A community corrections plan must be annually updated, approved by the county executive or, in a city having a consolidated city, by the city-county council, and submitted to the commissioner.

(d) No amendment to or substantial modification of an approved community corrections plan may be placed in effect until the department and county executive, or in a county having a consolidated city, the city-county council, have approved the amendment or modification.

(e) A copy of the final plan as approved by the department shall be made available to the board in a timely manner.

SECTION 6. IC 11-12-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The department shall do the following:

- (1) Provide consultation and technical assistance to counties to aid in the development of community corrections plans.
- (2) Provide training for community corrections personnel and board members to the extent funds are available.
- (3) Adopt under IC 4-22-2 rules governing application by counties for financial aid under this chapter, including the content of community corrections plans.
- (4) Adopt under IC 4-22-2 rules governing the disbursement of

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monies to a county and the county's certification of expenditures.

(5) Adopt under IC 4-22-2 minimum standards for the establishment, operation, and evaluation of programs receiving financial aid under this chapter. (These standards must be sufficiently flexible to foster the development of new and improved correctional practices.)

(6) Examine and either approve or disapprove applications for financial aid. The department's approval or disapproval must be based on this chapter and the rules adopted under this chapter.

(7) Keep the budget agency informed of the amount of appropriation needed to adequately fund programs under this chapter.

(8) Adopt under IC 4-22-2 a formula or other method of determining a participating county's share of funds appropriated for purposes of this chapter. This formula or method must be approved by the budget agency before the formula is adopted and must be designed to accurately reflect a county's correctional needs and ability to pay.

(9) Keep counties informed of money appropriated for the purposes of this chapter.

(10) Provide an approved training curriculum for community corrections field officers.

(11) Require community corrections programs to submit in proposed budget requests an evaluation of the use of department approved best practices for each community corrections program component.

(b) The commissioner may do the following:

(1) Visit and inspect any program receiving financial aid under this chapter.

(2) Require a participating county or program to submit information or statistics pertinent to the review of applications and programs.

(3) Expend up to three percent (3%) of the money appropriated to the department for community correction grants to provide technical assistance, consultation, and training to counties and to monitor and evaluate program delivery.

(c) Notwithstanding any law prohibiting advance payments, the department of correction may advance grant money to a county or group of counties in order to assist a community corrections program. However, not more than twenty-five percent (25%) of the amount awarded to a county or group of counties may be paid in advance.

(d) The commissioner shall disburse no more funds to any county

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under this chapter than are required to fund the community corrections plan."

Page 5, line 7, reset in roman "shall".

Page 5, line 7, delete "may".

Page 5, between lines 12 and 13, begin a new paragraph and insert:
"SECTION 8. IC 27-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) An undertaking is valid if it states:

- (1) the court where the defendant is to appear;
- (2) the amount of the bail; and
- (3) that it was made before an official legally authorized to take the bond.

(b) A surety remains liable on an undertaking despite:

- (1) any lack of the surety's qualifications as required by section 4 of this chapter;
- (2) any other agreement that is expressed in the undertaking;
- (3) any failure of the defendant to join in the undertaking; or
- (4) any other defect of form or record, or any other irregularity, except as to matters covered by subsection (a).

(c) Any undertaking written after August 31, 1985, shall expire thirty-six (36) months after it is posted for the release of a defendant from custody. This section does not apply to cases in which a bond has been declared to be forfeited ~~or in which the defendant is a fugitive from the jurisdiction after thirty-six (36) months.~~ **and the surety and bail agent have been notified as described in section 12 of this chapter.**

SECTION 9. IC 27-10-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) The court shall give the bail agent or insurer legal **written** notice of the defendant's trial or hearing **for purposes of entering a plea** at least seventy-two (72) hours before the defendant's appearance is required unless the appearance is scheduled within seventy-two (72) hours from the execution of the bond.

(b) The defendant's failure to appear constitutes a breach of the undertaking. The court before which the cause is pending shall make a record of the breach at which time section 12 of this chapter then applies.

SECTION 10. IC 27-10-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) **Only** if a defendant does not appear as provided in the bond:

- (1) the court shall:
 - (A) issue a warrant for the defendant's arrest; and

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- (B) order the bail agent and the surety to surrender the defendant to the court immediately;
- (2) the clerk shall, **less than thirty (30) days after the defendant's failure to appear**, mail notice of the order to both:
 - (A) the bail agent; and
 - (B) the surety;
 at each of the addresses indicated in the bonds; and
- (3) if the defendant later is arrested or otherwise appears:
 - (A) the court shall order that the surety be released from the bond; and
 - (B) after the court issues an order under clause (A), the surety's original undertaking shall be reinstated if the surety files a written request for the reinstatement of the undertaking with the court.

This subsection may not be construed to prevent a court from revoking or resetting bail.

- (b) The bail agent or surety must:
 - (1) produce the defendant; or
 - (2) prove within three hundred sixty-five (365) days:
 - (A) that the appearance of the defendant was prevented:
 - (i) by the defendant's illness or death;
 - (ii) because the defendant was at the scheduled time of appearance or currently is in the custody of the United States, a state, or a political subdivision of the United States or a state; **or**
 - (iii) because the required notice was not given; **or**
 - (iv) **because authorities have refused to extradite the defendant, by a preponderance of the evidence;** and
 - (B) the defendant's absence was not with the consent or connivance of the sureties.
 - (c) If the bail agent or surety does not comply with the terms of subsection (b) within one hundred twenty (120) days after the mailing of the notice required under subsection (a)(2), a late surrender fee shall be assessed against the bail agent or surety as follows:
 - (1) If compliance occurs more than one hundred twenty (120) days but not more than one hundred eighty (180) days after the mailing of notice, the late surrender fee is twenty percent (20%) of the face value of the bond.
 - (2) If compliance occurs more than one hundred eighty (180) days but not more than two hundred ten (210) days after the mailing of notice, the late surrender fee is thirty percent (30%) of the face value of the bond.

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(3) If compliance occurs more than two hundred ten (210) days but not more than two hundred forty (240) days after the mailing of notice, the late surrender fee is fifty percent (50%) of the face value of the bond.

(4) If compliance occurs more than two hundred forty (240) days but not more than three hundred sixty-five (365) days after the mailing of notice, the late surrender fee is eighty percent (80%) of the face value of the bond.

(5) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required under subsection (a)(2), the late surrender fee is eighty percent (80%) of the face value of the bond.

All late surrender fees are due as of the date of compliance with subsection (b) or three hundred sixty-five (365) days after the mailing of notice required under subsection (a)(2), whichever is earlier, and shall be paid by the surety when due. If the surety fails to pay, then the late surrender fees shall be paid by the commissioner as provided in subsection (f).

(d) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required by subsection (a)(2), the court shall declare forfeited an amount equal to twenty percent (20%) of the face value of the bond. The court shall immediately enter judgment on the forfeiture, without pleadings and without change of judge or change of venue, and assess against the bail agent or surety all actual costs resulting from the defendant's failure to appear. These costs include jury fees, witness fees, and any other documented costs incurred by the court.

(e) Proceedings relative to the bond, forfeiture of a bond, judgment on the forfeiture, execution of judgment, or stay of proceedings shall be in the court in which the bond was posted. Costs and late surrender fee assessed against a bail agent or surety under subsection (c) shall be satisfied without further order of the court as provided in subsection (f). The court may waive the late surrender fee or extend the period for payment beyond the statutorily permitted period, or both, if the following conditions are met:

- (1) A written request is filed with the court and the prosecutor.
- (2) The surety or bail agent provides evidence satisfactory to the court that diligent efforts were made to locate the defendant.

(f) In the case of an insurer, if the fees, costs, or judgment is not paid, then the clerk shall mail the notice to the commissioner. The commissioner shall:

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(1) within ten (10) days of receipt of the notice forward a copy by certified mail to the insurer;

(2) forty-five (45) days after receipt of the notice from the clerk, if the commissioner has not been notified by the clerk that the fees or judgment or both have been paid, pay the late surrender fee assessment, costs, and any judgment of forfeiture ordered by the court from funds the insurer has on deposit with the department of insurance;

(3) upon paying the assessment, costs, and judgment, if any, from funds on deposit, immediately revoke the license of the insurer, if the satisfaction causes the deposit remaining to be less than the amount required by this article; and

(4) within ten (10) days after revoking a license, notify the insurer and the insurer's agents and the clerk of each county in Indiana of the revocation and the insurer shall be prohibited from conducting a bail bond business in Indiana until the deposit has been replenished.

(g) The notice mailed by the clerk to the commissioner pursuant to the terms of subsection (f) shall include:

(1) the date on which the defendant originally failed to appear as provided in the bond;

(2) the date of compliance with subsection (b), if compliance was achieved within three hundred sixty-five (365) days after the mailing of the notice required by subsection (a)(2);

(3) the amount of the bond;

(4) the dollar amount of the late surrender fee due;

(5) the amount of costs resulting from the defendant's failure to appear; and

(6) if applicable, the dollar amount of the judgment of forfeiture entered by the court.

(h) Any surety on a bond may appeal to the court of appeals as in other civil cases without moving for a new trial, and on the appeal the evidence, if any, shall be reviewed.

(i) Fifty percent (50%) of the late surrender fees collected under this chapter shall be deposited in the police pension trust fund established under IC 36-8-10-12 and the remaining fifty percent (50%) shall be deposited in the county extradition fund established under IC 35-33-14.

SECTION 11. IC 35-33-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) If a defendant:

(1) was admitted to bail under section 3.2(a)(2) of this chapter; and

(2) has failed to appear before the court as ordered;

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the court shall, **except as provided in subsection (b) or section 8(b) of this chapter, declare the bond forfeited not earlier than one hundred twenty (120) days after the defendant's failure to appear and** issue a warrant for the defendant's arrest.

(b) In a criminal case, if the court having jurisdiction over the criminal case receives written notice of a pending civil action or unsatisfied judgment against the criminal defendant arising out of the same transaction or occurrence forming the basis of the criminal case, funds deposited with the clerk of the court under section 3.2(a)(2) of this chapter may not be declared forfeited by the court, and the court shall order the deposited funds to be held by the clerk. If there is an entry of final judgment in favor of the plaintiff in the civil action, and if the deposit and the bond are subject to forfeiture, the criminal court shall order payment of all or any part of the deposit to the plaintiff in the action, as is necessary to satisfy the judgment. The court shall then order the remainder of the deposit, if any, and the bond forfeited.

(c) Any proceedings concerning the bond, or its forfeiture, judgment, or execution of judgment, shall be held in the court that admitted the defendant to bail.

(d) After a bond has been forfeited under subsection (a) or (b), the clerk shall mail notice of forfeiture to the defendant. In addition, unless the court finds that there was justification for the defendant's failure to appear, the court shall immediately enter judgment, without pleadings and without change of judge or change of venue, against the defendant for the amount of the bail bond, and the clerk shall record the judgment.

(e) If a bond is forfeited and the court has entered a judgment under subsection (d), the clerk shall transfer to the state common school fund:

- (1) any amount remaining on deposit with the court (less the fees retained by the clerk); and
- (2) any amount collected in satisfaction of the judgment.

(f) The clerk shall return a deposit, less the administrative fee, made under section 3.2(a)(2) of this chapter to the defendant, if the defendant appeared at trial and the other critical stages of the legal proceedings.

SECTION 12. IC 35-38-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter, "home" means:

- (1) the interior living area of the temporary or permanent residence of an offender; or
- (2) if the offender's residence is a multi-family dwelling, the unit in which the offender resides, and not the:
 - (A) halls or common areas outside the unit where the offender

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resides; or

(B) other units, occupied or unoccupied, in the multi-family dwelling.

The term includes a hospital, health care facility, hospice, group home, maternity home, residential treatment facility, and boarding house. The term does not include a public correctional facility, or the residence of another person who is not part of the social unit formed by the offender's immediate family.

SECTION 13. IC 35-38-2.6-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.2. (a) A community corrections program shall establish written criteria and procedures for determining if an offender or alleged offender is eligible for direct placement supervision under this chapter.**

(b) The criteria and procedures established under subsection (a) must establish a record keeping system that allows the department or community corrections program to quickly determine if an offender or alleged offender is in violation of the terms of a direct placement order issued under this chapter.

(c) A community corrections program charged by a court with supervision of offenders and alleged offenders ordered to be placed directly in a community corrections program under this chapter shall provide all law enforcement agencies, including any contract agency (as defined in IC 35-38-2.5-2.5), having jurisdiction in the place where a community corrections program is located a list of offenders and alleged offenders under direct placement supervision. The list must include the following information about each offender and alleged offender:

- (1) The offender's name, any known aliases, and the location of the offender's direct placement under this chapter.**
- (2) The crime for which the offender was convicted.**
- (3) The date the offender's direct placement expires.**
- (4) The name, address, and telephone number of the offender's supervising community corrections program officer for direct placement under this chapter.**
- (5) An indication of whether the offender is a violent offender.**

(d) Except as provided in IC 35-28-2.5-6(1), a community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo direct placement under this chapter shall, at the beginning of a period of the direct placement, set any monitoring device (as defined in IC 35-38-2.5-3) and surveillance equipment to minimize the

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possibility that the offender or alleged offender may enter another residence or structure without the detection of a violation.

(e) A community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo direct placement under this chapter shall:

- (1) maintain or contract with a contract agency to maintain constant supervision of each offender and alleged offender as described in subsection (f); and
- (2) have adequate staff available twenty-four (24) hours each day to respond if an offender or alleged offender violates the conditions of the direct placement order under this chapter.

A community corrections program may contract with a contract agency under this subsection only if the contract agency is able to comply with subsection (f).

(f) A contract agency:

- (1) that maintains supervision of an offender or alleged offender under subsection (e)(1) shall follow the rules set by the local community corrections advisory board as a part of community corrections program direct placement written criteria and procedures; and
- (2) shall notify the contracting community corrections program within one (1) hour if the offender or alleged offender violates the conditions of the direct placement order. However, if a shorter notification time is required by the community corrections program, a community corrections advisory board must require a contract agency to comply with the shorter notification requirement for a direct placement order violation as if the offender were serving a direct placement order as part of a community corrections program.

(g) A community corrections program or contract agency charged by a court with supervision of an offender or alleged offender placed under direct placement under this chapter shall cause a local law enforcement agency or contract agency described in this section to be the initial agency contacted upon determining that the offender is in violation of a direct placement order.

SECTION 14. IC 35-38-2.6-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. If a court places a person on home detention as part of a community corrections program, the placement must comply with **all applicable provisions in IC 35-38-2.5, including the supervision, monitoring, and unauthorized absence provisions of IC 35-38-2.5-10, IC 35-38-2.5-12, and**

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~~IC 35-38-2.5-13.~~

SECTION 15. IC 35-38-2.6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) As used in this subsection, "home" means the actual living area of the temporary or permanent residence of a person. ~~The term does not include a:~~

- ~~(1) hospital;~~
- ~~(2) health care facility;~~
- ~~(3) hospice;~~
- ~~(4) group home;~~
- ~~(5) maternity home;~~
- ~~(6) residential treatment facility;~~
- ~~(7) boarding house; or~~
- ~~(8) public correctional facility.~~

A person who is placed in a community corrections program under this chapter is entitled to earn credit time under IC 35-50-6. ~~unless the person is placed in the person's home:~~

(b) A person who is placed in a community corrections program under this chapter may be deprived of earned credit time as provided under rules adopted by the department of correction under IC 4-22-2.".

Page 7, after line 22, begin a new paragraph and insert:

"SECTION 17. IC 35-50-6-5, AS AMENDED BY P.L.80-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time the person has earned for any of the following:

- (1) A violation of one (1) or more rules of the department of correction.
- (2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.
- (3) A violation of one (1) or more rules or conditions of a:
 - (A) community transition program; **or**
 - (B) **community corrections program.**
- (4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.
- (5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-8-7.
- (6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of

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correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, the person may also be reassigned to Class II (if the person is not a credit restricted felon) or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(e) of this chapter. The person may waive the person's right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 18. IC 11-12-2-9 IS REPEALED [EFFECTIVE JULY 1, 2010]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 340 as printed January 29, 2010.)

VAN HAAFTEN, Chair

Committee Vote: yeas 8, nays 1.

HOUSE MOTION

Mr. Speaker: I move that Senate Bill 340 be amended to read as follows:

Page 11, between lines 7 and 8, begin a new paragraph and insert:
"SECTION 8. IC 11-13-3-4, AS AMENDED BY P.L.111-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: 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 written statement of the conditions of parole. Signed copies of this

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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 a sex offender (as defined in IC 11-8-8-4.5) to:
 - (A) participate in a treatment program for sex offenders approved by the parole board; and
 - (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:
 - (i) receives the parole board's approval; or
 - (ii) successfully completes the treatment program referred to in clause (A); and

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(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex 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 sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex 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 sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

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(j) **If the department determines sufficient funding is available,** as a condition of parole the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

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

(l) As a condition of parole, the parole board may prohibit a parolee convicted of an offense under IC 35-46-3 from owning, harboring, or training an animal, and, if the parole board prohibits a parolee convicted of an offense under IC 35-46-3 from having direct or indirect contact with an individual, the parole board may also prohibit the parolee from having direct or indirect contact with any animal belonging to the individual.

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

Renumber all SECTIONS consecutively.

(Reference is to SB 340 as printed February 19, 2010.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 340 be amended to read as follows:

Page 10, line 28, after "(b)," insert "**except as provided in subsection (n),**".

Page 11, line 5, after "(n)" insert "**The board shall conduct the community investigation described in subsection (m) if:**

(1) the person is not being placed on parole for the first time;



- (2) the person was convicted of a crime of violence (as defined in IC 35-50-1-2);**
 - (3) the person is a sex offender (as defined in IC 11-8-8-4.5);**
 - or**
 - (4) a person who in the six (6) months before being placed on parole has violated a rule of the department of correction or a rule of the penal facility in which the person is imprisoned.**
- (o)".**

(Reference is to ESB 340 as printed February 19, 2010.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 340 be amended to read as follows:

Page 15, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 12. IC 35-38-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) When the defendant appears for sentencing, the court shall inform the defendant of the verdict of the jury or the finding of the court. The court shall afford counsel for the defendant an opportunity to speak on behalf of the defendant. The defendant may also make a statement personally in the defendant's own behalf and, before pronouncing sentence, the court shall ask the defendant whether the defendant wishes to make such a statement. Sentence shall then be pronounced, unless a sufficient cause is alleged or appears to the court for delay in sentencing.

(b) A court that sentences a person to a term of imprisonment shall include the total costs of incarceration in the sentencing order. The court may not consider Class I credit under IC 35-50-6-3 in the calculation of the total costs of incarceration."

Page 22, delete lines 5 through 6, begin a new paragraph and insert:

"SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 11-12-2-9; IC 35-41-1-26.8."

Re-number all SECTIONS consecutively.

(Reference is to ESB 340 as printed February 19, 2010.)

FOLEY

