

Adopted	Rejected
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## COMMITTEE REPORT

YES:	8
NO:	1

### 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:*

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

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

- 1 (B) The identification of additional types of community  
 2 corrections programs necessary to create an effective  
 3 continuum of corrections sanctions.
- 4 (C) The identification of categories of offenders who should be  
 5 eligible for sentencing to community corrections programs and  
 6 the impact that changes to the existing system of community  
 7 corrections programs would have on sentencing practices.
- 8 (D) The identification of necessary changes in state oversight  
 9 and coordination of community corrections programs.
- 10 (E) An evaluation of mechanisms for state funding and local  
 11 community participation in the operation and implementation  
 12 of community corrections programs.
- 13 (F) An analysis of the rate of recidivism of clients under the  
 14 supervision of existing community corrections programs.
- 15 (8) Propose plans, programs, and legislation for improving the  
 16 effectiveness of the criminal justice and corrections systems.
- 17 (9) Evaluate the use of faith based organizations as an alternative  
 18 to incarceration.
- 19 (10) Study issues related to sex offenders, including:  
 20 (A) lifetime parole;  
 21 (B) GPS or other electronic monitoring;  
 22 (C) a classification system for sex offenders;  
 23 (D) recidivism; and  
 24 (E) treatment.
- 25 **(11) Study and make recommendations regarding whether**  
 26 **individuals on parole should be eligible to receive credit time**  
 27 **to potentially shorten their period of parole.**

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

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

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

34 SECTION 3. IC 11-12-2-1 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) For the purpose  
 36 of encouraging counties to develop a coordinated local  
 37 corrections-criminal justice system and providing effective alternatives  
 38 to imprisonment at the state level, the commissioner shall, out of funds

1 appropriated for such purposes, make grants to counties for the  
 2 establishment and operation of community corrections programs.  
 3 Appropriations intended for this purpose may not be used by the  
 4 department for any other purpose. Money appropriated to the  
 5 department of correction for the purpose of making grants under this  
 6 chapter and ~~charges made against a county~~ **any financial aid**  
 7 **payments suspended** under section ~~9~~; **6 of this chapter** do not revert  
 8 to the state general fund at the close of any fiscal year, but remain  
 9 available to the department of correction for its use in making grants  
 10 under this chapter.

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

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

- 18 (1) formulate:
- 19 (A) the community corrections plan and the application for  
 20 financial aid required by section 4 of this chapter; and
- 21 (B) the forensic diversion program plan under IC 11-12-3.7;
- 22 (2) observe and coordinate community corrections programs in  
 23 the county;
- 24 (3) make an annual report to the county fiscal body, county  
 25 executive, or, in a county having a consolidated city, the  
 26 city-county council, containing an evaluation of the effectiveness  
 27 of programs receiving financial aid under this chapter and  
 28 recommendations for improvement, modification, or  
 29 discontinuance of these programs;
- 30 (4) ensure that programs receiving financial aid under this chapter  
 31 comply with the standards adopted by the department under  
 32 section 5 of this chapter; ~~and~~
- 33 (5) recommend to the county executive or, in a county having a  
 34 consolidated city, to the city-county council, the approval or  
 35 disapproval of contracts with units of local government or  
 36 nongovernmental agencies that desire to participate in the  
 37 community corrections plan; **and**
- 38 **(6) ensure that:**

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

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

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

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

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

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

15                 (2) Hold a regular meeting at least one (1) time every three (3)  
 16                 months and at other times as needed to conduct all necessary  
 17                 business. Dates of regular meetings shall be established at the first  
 18                 meeting of each year.

19                 (3) Comply with the public meeting and notice requirements  
 20                 under IC 5-14-1.5.

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

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

28          SECTION 5. IC 11-12-2-4 IS AMENDED TO READ AS  
 29          FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A county or  
 30          group of counties seeking financial aid under this chapter must apply  
 31          to the commissioner in a manner and form prescribed by the  
 32          commissioner. The application must include a community corrections  
 33          plan that has been approved by the community corrections board and  
 34          the county executive or, in a county having a consolidated city, by the  
 35          city-county council. No county may receive financial aid until its  
 36          application is approved by the commissioner.

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

- 1 (1) a description of each program for which financial aid is  
 2 sought;
- 3 (2) the purpose, objective, administrative structure, staffing, and  
 4 duration of the program;
- 5 **(3) a method to evaluate each component of the program to**  
 6 **determine the overall use of department approved best**  
 7 **practices for the program;**
- 8 ~~(3)~~ (4) the program's total operating budget, including all other  
 9 sources of anticipated income;
- 10 ~~(4)~~ (5) the amount of community involvement and client  
 11 participation in the program;
- 12 ~~(5)~~ (6) the location and description of facilities that will be used  
 13 in the program; and
- 14 ~~(6)~~ (7) the manner in which counties that jointly apply for  
 15 financial aid under this chapter will operate a coordinated  
 16 community corrections program.

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

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

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

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

- 30 (1) Provide consultation and technical assistance to counties to  
 31 aid in the development of community corrections plans.
- 32 (2) Provide training for community corrections personnel and  
 33 board members to the extent funds are available.
- 34 (3) Adopt under IC 4-22-2 rules governing application by  
 35 counties for financial aid under this chapter, including the content  
 36 of community corrections plans.
- 37 (4) Adopt under IC 4-22-2 rules governing the disbursement of  
 38 monies to a county and the county's certification of expenditures.

- 1 (5) Adopt under IC 4-22-2 minimum standards for the  
2 establishment, operation, and evaluation of programs receiving  
3 financial aid under this chapter. (These standards must be  
4 sufficiently flexible to foster the development of new and  
5 improved correctional practices.)
- 6 (6) Examine and either approve or disapprove applications for  
7 financial aid. The department's approval or disapproval must be  
8 based on this chapter and the rules adopted under this chapter.
- 9 (7) Keep the budget agency informed of the amount of  
10 appropriation needed to adequately fund programs under this  
11 chapter.
- 12 (8) Adopt under IC 4-22-2 a formula or other method of  
13 determining a participating county's share of funds appropriated  
14 for purposes of this chapter. This formula or method must be  
15 approved by the budget agency before the formula is adopted and  
16 must be designed to accurately reflect a county's correctional  
17 needs and ability to pay.
- 18 (9) Keep counties informed of money appropriated for the  
19 purposes of this chapter.
- 20 (10) Provide an approved training curriculum for community  
21 corrections field officers.
- 22 **(11) Require community corrections programs to submit in**  
23 **proposed budget requests an evaluation of the use of**  
24 **department approved best practices for each community**  
25 **corrections program component.**
- 26 (b) The commissioner may do the following:
- 27 (1) Visit and inspect any program receiving financial aid under  
28 this chapter.
- 29 (2) Require a participating county or program to submit  
30 information or statistics pertinent to the review of applications  
31 and programs.
- 32 (3) Expend up to three percent (3%) of the money appropriated to  
33 the department for community correction grants to provide  
34 technical assistance, consultation, and training to counties and to  
35 monitor and evaluate program delivery.
- 36 (c) Notwithstanding any law prohibiting advance payments, the  
37 department of correction may advance grant money to a county or  
38 group of counties in order to assist a community corrections program.

1 However, not more than twenty-five percent (25%) of the amount  
2 awarded to a county or group of counties may be paid in advance.

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

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

7 Page 5, line 7, delete "may".

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

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

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

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

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

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

37 (b) The defendant's failure to appear constitutes a breach of the  
38 undertaking. The court before which the cause is pending shall make

1 a record of the breach at which time section 12 of this chapter then  
2 applies.

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

6 (1) the court shall:

7 (A) issue a warrant for the defendant's arrest; and

8 (B) order the bail agent and the surety to surrender the  
9 defendant to the court immediately;

10 (2) the clerk shall, **less than thirty (30) days after the**  
11 **defendant's failure to appear**, mail notice of the order to both:

12 (A) the bail agent; and

13 (B) the surety;

14 at each of the addresses indicated in the bonds; and

15 (3) if the defendant later is arrested or otherwise appears:

16 (A) the court shall order that the surety be released from the  
17 bond; and

18 (B) after the court issues an order under clause (A), the  
19 surety's original undertaking shall be reinstated if the surety  
20 files a written request for the reinstatement of the undertaking  
21 with the court.

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

24 (b) The bail agent or surety must:

25 (1) produce the defendant; or

26 (2) prove within three hundred sixty-five (365) days:

27 (A) that the appearance of the defendant was prevented:

28 (i) by the defendant's illness or death;

29 (ii) because the defendant was at the scheduled time of  
30 appearance or currently is in the custody of the United  
31 States, a state, or a political subdivision of the United States  
32 or a state; ~~or~~

33 (iii) because the required notice was not given; ~~or~~

34 **(iv) because authorities have refused to extradite the**  
35 **defendant, by a preponderance of the evidence;** and

36 (B) the defendant's absence was not with the consent or  
37 connivance of the sureties.

38 (c) If the bail agent or surety does not comply with the terms of

1 subsection (b) within one hundred twenty (120) days after the mailing  
2 of the notice required under subsection (a)(2), a late surrender fee shall  
3 be assessed against the bail agent or surety as follows:

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

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

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

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

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

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

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

1 fees, and any other documented costs incurred by the court.

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

10 (1) A written request is filed with the court and the prosecutor.

11 (2) The surety or bail agent provides evidence satisfactory to the  
12 court that diligent efforts were made to locate the defendant.

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

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

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

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

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

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

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

37 (2) the date of compliance with subsection (b), if compliance was  
38 achieved within three hundred sixty-five (365) days after the

- 1 mailing of the notice required by subsection (a)(2);  
 2 (3) the amount of the bond;  
 3 (4) the dollar amount of the late surrender fee due;  
 4 (5) the amount of costs resulting from the defendant's failure to  
 5 appear; and  
 6 (6) if applicable, the dollar amount of the judgment of forfeiture  
 7 entered by the court.

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

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

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

- 17 (1) was admitted to bail under section 3.2(a)(2) of this chapter;  
 18 and  
 19 (2) has failed to appear before the court as ordered;

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

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

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

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

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

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

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

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

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

19 (1) the interior living area of the temporary or permanent  
 20 residence of an offender; or

21 (2) if the offender's residence is a multi-family dwelling, the unit  
 22 in which the offender resides, and not the:

23 (A) halls or common areas outside the unit where the offender  
 24 resides; or

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

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

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

38 **(b) The criteria and procedures established under subsection (a)**

1 must establish a record keeping system that allows the department  
2 or community corrections program to quickly determine if an  
3 offender or alleged offender is in violation of the terms of a direct  
4 placement order issued under this chapter.

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

14 (1) The offender's name, any known aliases, and the location  
15 of the offender's direct placement under this chapter.

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

17 (3) The date the offender's direct placement expires.

18 (4) The name, address, and telephone number of the  
19 offender's supervising community corrections program  
20 officer for direct placement under this chapter.

21 (5) An indication of whether the offender is a violent offender.

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

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

33 (1) maintain or contract with a contract agency to maintain  
34 constant supervision of each offender and alleged offender as  
35 described in subsection (f); and

36 (2) have adequate staff available twenty-four (24) hours each

1           day to respond if an offender or alleged offender violates the  
 2           conditions of the direct placement order under this chapter.  
 3       **A community corrections program may contract with a contract**  
 4       **agency under this subsection only if the contract agency is able to**  
 5       **comply with subsection (f).**

6           **(f) A contract agency:**

7           **(1) that maintains supervision of an offender or alleged**  
 8           **offender under subsection (e)(1) shall follow the rules set by**  
 9           **the local community corrections advisory board as a part of**  
 10          **community corrections program direct placement written**  
 11          **criteria and procedures; and**

12          **(2) shall notify the contracting community corrections**  
 13          **program within one (1) hour if the offender or alleged**  
 14          **offender violates the conditions of the direct placement order.**  
 15          **However, if a shorter notification time is required by the**  
 16          **community corrections program, a community corrections**  
 17          **advisory board must require a contract agency to comply**  
 18          **with the shorter notification requirement for a direct**  
 19          **placement order violation as if the offender were serving a**  
 20          **direct placement order as part of a community corrections**  
 21          **program.**

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

28                SECTION 14. IC 35-38-2.6-4.5 IS AMENDED TO READ AS  
 29       FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. If a court places a  
 30       person on home detention as part of a community corrections program,  
 31       the placement must comply with **all applicable provisions in**  
 32       **IC 35-38-2.5, including the supervision, monitoring, and unauthorized**  
 33       **absence provisions of IC 35-38-2.5-10, IC 35-38-2.5-12, and**  
 34       **IC 35-38-2.5-13.**

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

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

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

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

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

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

- 25 (1) A violation of one (1) or more rules of the department of  
 26 correction.
- 27 (2) If the person is not committed to the department, a violation  
 28 of one (1) or more rules of the penal facility in which the person  
 29 is imprisoned.
- 30 (3) A violation of one (1) or more rules or conditions of a:  
 31 **(A) community transition program; or**  
 32 **(B) community corrections program.**
- 33 (4) If a court determines that a civil claim brought by the person  
 34 in a state or an administrative court is frivolous, unreasonable, or

- 1 groundless.
- 2 (5) If the person is a sex offender (as defined in IC 11-8-8-5) and
- 3 refuses to register before being released from the department as
- 4 required under IC 11-8-8-7.
- 5 (6) If the person is a sex offender (as defined in IC 11-8-8-5) and
- 6 refuses to participate in a sex offender treatment program
- 7 specifically offered to the sex offender by the department of
- 8 correction while the person is serving a period of incarceration
- 9 with the department of correction.

10 However, the violation of a condition of parole or probation may not be

11 the basis for deprivation. Whenever a person is deprived of credit time,

12 the person may also be reassigned to Class II (if the person is not a

13 credit restricted felon) or Class III.

14 (b) Before a person may be deprived of earned credit time, the

15 person must be granted a hearing to determine the person's guilt or

16 innocence and, if found guilty, whether deprivation of earned credit

17 time is an appropriate disciplinary action for the violation. In

18 connection with the hearing, the person is entitled to the procedural

19 safeguards listed in section 4(e) of this chapter. The person may waive

20 the person's right to the hearing.

21 (c) Any part of the credit time of which a person is deprived under

22 this section may be restored.

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

24 2010]."

25 Renumber all SECTIONS consecutively.

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

**and when so amended that said bill do pass.**

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Representative Van Haften