



January 29, 2010

SENATE BILL No. 291

DIGEST OF SB 291 (Updated January 26, 2010 6:17 pm - DI 106)

Citations Affected: IC 4-10; IC 35-38.

Synopsis: Sex or violent offender tracking program. Creates the public safety technology fund to purchase, operate, and maintain a qualified sex or violent offender tracking program. Establishes a monthly \$1 probation technology fee to fund the public safety technology fund, and provides that the attorney general shall administer the fund in consultation with the Indiana sheriffs.

Effective: July 1, 2010.

Steele

January 11, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 28, 2010, amended, reported favorably — Do Pass. Pursuant to Senate Rule 65(b), reassigned to Committee on Appropriations.

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SB 291—LS 7042/DI 106+



January 29, 2010

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.

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SENATE BILL No. 291



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 35-38-2-1, AS AMENDED BY P.L.1-2006,
- 2 SECTION 529, IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Whenever it places a person
- 4 on probation, the court shall:
- 5 (1) specify in the record the conditions of the probation; and
- 6 (2) advise the person that if the person violates a condition of
- 7 probation during the probationary period, a petition to revoke
- 8 probation may be filed before the earlier of the following:
- 9 (A) One (1) year after the termination of probation.
- 10 (B) Forty-five (45) days after the state receives notice of the
- 11 violation.
- 12 (b) In addition, if the person was convicted of a felony and is placed
- 13 on probation, the court shall order the person to pay to the probation
- 14 department the user's fee prescribed under subsection (d). If the person
- 15 was convicted of a misdemeanor, the court may order the person to pay
- 16 the user's fee prescribed under subsection (e). The court may:
- 17 (1) modify the conditions (except a fee payment may only be

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1 modified as provided in section 1.7(b) of this chapter); or
2 (2) terminate the probation;
3 at any time. If the person commits an additional crime, the court may
4 revoke the probation.

5 (c) If a clerk of a court collects a probation user's fee, the clerk:
6 (1) may keep not more than three percent (3%) of the fee to defray
7 the administrative costs of collecting the fee and shall deposit any
8 fee kept under this subsection in the clerk's record perpetuation
9 fund established under IC 33-37-5-2; and

10 (2) if requested to do so by the county auditor, city fiscal officer,
11 or town fiscal officer under clause (A), (B), or (C), transfer not
12 more than three percent (3%) of the fee to the:

13 (A) county auditor, who shall deposit the money transferred
14 under this subdivision into the county general fund;

15 (B) city general fund when requested by the city fiscal officer;
16 or

17 (C) town general fund when requested by the town fiscal
18 officer.

19 (d) In addition to any other conditions of probation, the court shall
20 order each person convicted of a felony to pay:

21 (1) not less than twenty-five dollars (\$25) nor more than one
22 hundred dollars (\$100) as an initial probation user's fee;

23 (2) a monthly probation user's fee of not less than fifteen dollars
24 (\$15) nor more than thirty dollars (\$30) for each month that the
25 person remains on probation;

26 (3) the costs of the laboratory test or series of tests to detect and
27 confirm the presence of the human immunodeficiency virus (HIV)
28 antigen or antibodies to the human immunodeficiency virus (HIV)
29 if such tests are required by the court under section 2.3 of this
30 chapter;

31 (4) an alcohol abuse deterrent fee and a medical fee set by the
32 court under IC 9-30-9-8, if the court has referred the defendant to
33 an alcohol abuse deterrent program; ~~and~~

34 (5) an administrative fee of one hundred dollars (\$100); **and**

35 **(6) a monthly probation technology fee of one dollar (\$1) for**
36 **each month that the person remains on probation;**

37 to either the probation department or the clerk.

38 (e) In addition to any other conditions of probation, the court may
39 order each person convicted of a misdemeanor to pay:

40 (1) not more than a fifty dollar (\$50) initial probation user's fee;

41 (2) a monthly probation user's fee of not less than ten dollars
42 (\$10) nor more than twenty dollars (\$20) for each month that the

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- 1 person remains on probation;
- 2 (3) the costs of the laboratory test or series of tests to detect and
- 3 confirm the presence of the human immunodeficiency virus (HIV)
- 4 antigen or antibodies to the human immunodeficiency virus (HIV)
- 5 if such tests are required by the court under section 2.3 of this
- 6 chapter; ~~and~~
- 7 (4) an administrative fee of fifty dollars (\$50); **and**
- 8 **(6) a monthly probation technology fee of one dollar (\$1) for**
- 9 **each month that the person remains on probation;**

10 to either the probation department or the clerk.

11 (f) The probation department or clerk shall collect the
12 administrative fees under subsections (d)(5) and (e)(4) before
13 collecting any other fee under subsection (d) or (e). All money
14 collected by the probation department or the clerk under this section
15 shall be transferred to the county treasurer, who shall, **except as**
16 **provided in subsection (n)**, deposit the money into the county
17 supplemental adult probation services fund. The fiscal body of the
18 county shall appropriate money from the county supplemental adult
19 probation services fund:

- 20 (1) to the county, superior, circuit, or municipal court of the
- 21 county that provides probation services to adults to supplement
- 22 adult probation services; and
- 23 (2) to supplement the salaries of probation officers in accordance
- 24 with the schedule adopted by the county fiscal body under
- 25 IC 36-2-16.5.

26 (g) The probation department or clerk shall collect the
27 administrative fee under subsection (e)(4) before collecting any other
28 fee under subsection (e). All money collected by the probation
29 department or the clerk of a city or town court under this section shall
30 be transferred to the fiscal officer of the city or town, **who shall, except**
31 **as provided in subsection (n)**, ~~for~~ deposit **the money** into the local
32 supplemental adult probation services fund. The fiscal body of the city
33 or town shall appropriate money from the local supplemental adult
34 probation services fund to the city or town court of the city or town for
35 the court's use in providing probation services to adults or for the
36 court's use for other purposes as may be appropriated by the fiscal
37 body. Money may be appropriated under this subsection only to those
38 city or town courts that have an adult probation services program. If a
39 city or town court does not have such a program, the money collected
40 by the probation department must be transferred and appropriated as
41 provided under subsection (f).

42 (h) Except as provided in subsection (j), the county or local

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1 supplemental adult probation services fund may be used only to
2 supplement probation services and to supplement salaries for probation
3 officers. A supplemental probation services fund may not be used to
4 replace other funding of probation services. Any money remaining in
5 the fund at the end of the year does not revert to any other fund but
6 continues in the county or local supplemental adult probation services
7 fund.

8 (i) A person placed on probation for more than one (1) crime:
9 (1) may be required to pay more than one (1) initial probation
10 user's fee; and
11 (2) may not be required to pay more than one (1) monthly
12 probation user's fee per month;
13 to the probation department or the clerk.

14 (j) This subsection applies to a city or town located in a county
15 having a population of more than one hundred eighty-two thousand
16 seven hundred ninety (182,790) but less than two hundred thousand
17 (200,000). Any money remaining in the local supplemental adult
18 probation services fund at the end of the local fiscal year may be
19 appropriated by the city or town fiscal body to the city or town court for
20 use by the court for purposes determined by the fiscal body.

21 (k) In addition to other methods of payment allowed by law, a
22 probation department may accept payment of fees required under this
23 section and section 1.5 of this chapter by credit card (as defined in
24 IC 14-11-1-7). The liability for payment is not discharged until the
25 probation department receives payment or credit from the institution
26 responsible for making the payment or credit.

27 (l) The probation department may contract with a bank or credit
28 card vendor for acceptance of bank or credit cards. However, if there
29 is a vendor transaction charge or discount fee, whether billed to the
30 probation department or charged directly to the probation department's
31 account, the probation department may collect a credit card service fee
32 from the person using the bank or credit card. The fee collected under
33 this subsection is a permitted additional charge to the money the
34 probation department is required to collect under subsection (d) or (e).

35 (m) The probation department shall forward the credit card service
36 fees collected under subsection (l) to the county treasurer or city or
37 town fiscal officer in accordance with subsection (f) or (g). These funds
38 may be used without appropriation to pay the transaction charge or
39 discount fee charged by the bank or credit card vendor.

40 **(n) The county treasurer or the fiscal officer of a city or town**
41 **shall semiannually distribute to the auditor of state money**
42 **collected under subsections (d)(6) and (e)(6) for deposit in the**

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public safety technology fund (IC 4-10-22-3).

SECTION 2. IC 4-10-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 22. Public Safety Technology Fund

Sec. 1. As used in this chapter, "fund" means the public safety technology fund established by section 3 of this chapter.

Sec. 2. As used in this chapter, "qualified sex or violent offender tracking program" means a computer software program capable of registering, tracking, and monitoring sex or violent offenders (as defined in IC 11-8-8-5). A qualified sex or violent offender tracking program must have the following capabilities:

- (1) The ability to register and track offenders in accordance with Indiana law, including the ability to store all registration data required by statute.**
- (2) Customizable scheduling for offender verification.**
- (3) Automatic calendar functionality.**
- (4) A searchable data base that is maintained by the vendor.**
- (5) Mapping capability that is capable of verifying addresses and identifying exclusion zones.**
- (6) The ability to offer integrated community notification, including customizable electronic mail notification.**
- (7) Guaranteed ninety-nine and nine-tenths percent (99.9%) uptime.**
- (8) Full-time user support services.**
- (9) The ability to provide interagency alerts concerning offender movement.**
- (10) The ability to identify when an offender is in jail custody.**

Sec. 3. (a) The public safety technology fund is established for the purpose of purchasing, operating, and maintaining a qualified sex or violent offender tracking program. The fund shall be administered by the attorney general in consultation with the Indiana sheriffs. The fund consists of:

- (1) money deposited in the fund from the probation technology fee under IC 35-38-2-1;**
- (2) grants; and**
- (3) donations.**

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that

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1 **accrues from these investments shall be deposited in the fund.**
2 **(d) Money in the fund at the end of a state fiscal year does not**
3 **revert to the state general fund.**
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Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 65(b), I hereby report that, subsequent to the adoption of the Corrections, Criminal, and Civil Matters Reports on January 28, 2010, Senate Bill 26 and Senate Bill 291 were reassigned to the Committee on Appropriations.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 291, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Page 2, line 35, after "a" insert "**monthly**".

Page 2, line 35, after "\$1" delete ";" and insert "**for each month that the person remains on probation;**".

Page 3, line 7, after "a" insert "**monthly**".

Page 3, line 7, after "\$1" delete ";" and insert "**for each month that the person remains on probation;**".

Page 5, line 15, delete "Calendar" and insert "**Automatic calendar**".

Page 5, between lines 23 and 24, begin a new line block indented and insert:

"(9) The ability to provide interagency alerts concerning offender movement.

(10) The ability to identify when an offender is in jail custody."

Page 5, line 27, after "general" delete "." and insert "**in consultation with the Indiana sheriffs.**".

Page 5, delete lines 40 through 41.

and when so amended that said bill do pass.

(Reference is to SB 291 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 1.

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