



January 29, 2010

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## SENATE BILL No. 340

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DIGEST OF SB 340 (Updated January 27, 2010 1:38 pm - DI 106)

**Citations Affected:** IC 11-13; IC 35-50.

**Synopsis:** Parole board duties. Makes conducting a community investigation by the parole board discretionary rather than mandatory. 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.

**Effective:** July 1, 2010.

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**Bray, Lanane, Randolph**

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January 11, 2010, read first time and referred to Committee on Judiciary.  
January 28, 2010, amended, reported favorably — Do Pass.

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SB 340—LS 6560/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. 340

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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 11-13-3-3, AS AMENDED BY P.L.173-2006,  
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]: Sec. 3. (a) A person sentenced under IC 35-50 shall be  
4 released on parole or discharged from the person's term of  
5 imprisonment under IC 35-50 without a parole release hearing.  
6 (b) A person sentenced for an offense under laws other than  
7 IC 35-50 who is eligible for release on parole, or a person whose parole  
8 is revoked and is eligible for reinstatement on parole under rules  
9 adopted by the parole board shall, before the date of the person's parole  
10 eligibility, be granted a parole release hearing to determine whether  
11 parole will be granted or denied. The hearing shall be conducted by one  
12 (1) or more of the parole board members. If one (1) or more of the  
13 members conduct the hearing on behalf of the parole board, the final  
14 decision shall be rendered by the full parole board based upon the  
15 record of the proceeding and the hearing conductor's findings. Before  
16 the hearing, the parole board shall order an investigation to include the  
17 collection and consideration of:

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- 1 (1) reports regarding the person's medical, psychological,
- 2 educational, vocational, employment, economic, and social
- 3 condition and history;
- 4 (2) official reports of the person's history of criminality;
- 5 (3) reports of earlier parole or probation experiences;
- 6 (4) reports concerning the person's present commitment that are
- 7 relevant to the parole release determination;
- 8 (5) any relevant information submitted by or on behalf of the
- 9 person being considered; and
- 10 (6) such other relevant information concerning the person as may
- 11 be reasonably available.

12 (c) Unless the victim has requested in writing not to be notified, the  
 13 department shall notify a victim of a felony (or the next of kin of the  
 14 victim if the felony resulted in the death of the victim) or any witness  
 15 involved in the prosecution of an offender imprisoned for the  
 16 commission of a felony when the offender is:

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

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

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

30 (d) The department shall make the notification required under  
 31 subsection (c):

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

36 The department shall supply the information to a victim (or a next of  
 37 kin of a victim in the appropriate case) and a witness at the address  
 38 supplied to the department by the victim (or next of kin) or witness. A  
 39 victim (or next of kin) is responsible for supplying the department with  
 40 any change of address or telephone number of the victim (or next of  
 41 kin).

42 (e) The probation officer conducting the presentence investigation

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1 shall inform the victim and witness described in subsection (c), at the  
 2 time of the interview with the victim or witness, of the right of the  
 3 victim or witness to receive notification from the department under  
 4 subsection (c). The probation department for the sentencing court shall  
 5 forward the most recent list of the addresses or telephone numbers, or  
 6 both, of victims to the department of correction. The probation  
 7 department shall supply the department with the information required  
 8 by this section as soon as possible but not later than five (5) days from  
 9 the receipt of the information from the victim. A victim (or next of kin)  
 10 is responsible for supplying the department with the correct address  
 11 and telephone number of the victim (or next of kin).

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

18 (g) The notice required under subsection (c) must specify whether  
 19 the prisoner is being discharged, is being released on parole, is being  
 20 released on lifetime parole, is having a parole release hearing, is having  
 21 a parole violation hearing, or has escaped. The notice must contain the  
 22 following information:

- 23 (1) The name of the prisoner.
- 24 (2) The date of the offense.
- 25 (3) The date of the conviction.
- 26 (4) The felony of which the prisoner was convicted.
- 27 (5) The sentence imposed.
- 28 (6) The amount of time served.
- 29 (7) The date and location of the interview (if applicable).

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

- 33 (1) nature and circumstances of the crime for which the offender  
 34 is committed;
- 35 (2) offender's prior criminal record;
- 36 (3) offender's conduct and attitude during the commitment; and
- 37 (4) offender's parole plan.

38 (i) The hearing prescribed by this section may be conducted in an  
 39 informal manner without regard to rules of evidence. In connection  
 40 with the hearing, however:

- 41 (1) reasonable, advance written notice, including the date, time,  
 42 and place of the hearing shall be provided to the person being

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1 considered;

2 (2) the person being considered shall be given access, in accord

3 with IC 11-8-5, to records and reports considered by the parole

4 board in making its parole release decision;

5 (3) the person being considered may appear, speak in the person's

6 own behalf, and present documentary evidence;

7 (4) irrelevant, immaterial, or unduly repetitious evidence shall be

8 excluded; and

9 (5) a record of the proceeding, to include the results of the parole

10 board's investigation, notice of the hearing, and evidence adduced

11 at the hearing, shall be made and preserved.

12 (j) If parole is denied, the parole board shall give the person written

13 notice of the denial and the reasons for the denial. The parole board

14 may not parole a person if it determines that there is substantial reason

15 to believe that the person:

16 (1) will engage in further specified criminal activity; or

17 (2) will not conform to appropriate specified conditions of parole.

18 (k) If parole is denied, the parole board shall conduct another parole

19 release hearing not earlier than five (5) years after the date of the

20 hearing at which parole was denied. However, the board may conduct

21 a hearing earlier than five (5) years after denial of parole if the board:

22 (1) finds that special circumstances exist for the holding of a

23 hearing; and

24 (2) gives reasonable notice to the person being considered for

25 parole.

26 (l) The parole board may parole a person who is outside Indiana on

27 a record made by the appropriate authorities of the jurisdiction in

28 which that person is imprisoned.

29 (m) If the board is considering the release on parole of an offender

30 who is serving a sentence of life in prison, a determinate term of

31 imprisonment of at least ten (10) years, or an indeterminate term of

32 imprisonment with a minimum term of at least ten (10) years, in

33 addition to the investigation required under subsection (b), the board

34 ~~shall~~ **may** order and consider a community investigation, which ~~must~~

35 **may** include an investigation and report that substantially reflects the

36 attitudes and opinions of:

37 (1) the community in which the crime committed by the offender

38 occurred;

39 (2) law enforcement officers who have jurisdiction in the

40 community in which the crime occurred;

41 (3) the victim of the crime committed by the offender, or if the

42 victim is deceased or incompetent for any reason, the victim's

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relatives or friends; and  
 (4) friends or relatives of the offender.

If the board reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board ~~shall~~ **may** accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

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

SECTION 2. IC 35-50-6-1, AS AMENDED BY P.L.216-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to that term, the person shall be:

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

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

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

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

(b) This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of release until the person's fixed term expires, unless the person's parole is revoked or the person is discharged from

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1 that term by the parole board. In any event, if the person's parole is not  
2 revoked, the parole board shall discharge the person after the period set  
3 under subsection (a) or the expiration of the person's fixed term,  
4 whichever is shorter.

5 (c) A person whose parole is revoked shall be imprisoned for all or  
6 part of the remainder of the person's fixed term. However, the person  
7 shall again be released on parole when the person completes that  
8 remainder, less the credit time the person has earned since the  
9 revocation. The parole board may reinstate the person on parole at any  
10 time after the revocation.

11 (d) This subsection does not apply to a person who is a sexually  
12 violent predator under IC 35-38-1-7.5. When a sex offender (as defined  
13 in IC 11-8-8-4.5) completes the sex offender's fixed term of  
14 imprisonment, less credit time earned with respect to that term, the sex  
15 offender shall be placed on parole for not more than ten (10) years.

16 (e) This subsection applies to a person who:  
17 (1) is a sexually violent predator under IC 35-38-1-7.5;  
18 (2) has been convicted of murder (IC 35-42-1-1); or  
19 (3) has been convicted of voluntary manslaughter (IC 35-42-1-3).  
20 When a person described in this subsection completes the person's  
21 fixed term of imprisonment, less credit time earned with respect to that  
22 term, the person shall be placed on parole for the remainder of the  
23 person's life.

24 (f) This subsection applies to a parolee in another jurisdiction who  
25 is a person described in subsection (e) and whose parole supervision is  
26 transferred to Indiana from another jurisdiction. In accordance with  
27 IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and  
28 Parolees) and rules adopted under Article VII (d)(8) of the Interstate  
29 Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who  
30 is a person described in subsection (e) and whose parole supervision is  
31 transferred to Indiana is subject to the same conditions of parole as a  
32 person described in subsection (e) who was convicted in Indiana,  
33 including:

- 34 (1) lifetime parole (as described in subsection (e)); and  
35 (2) the requirement that the person wear a monitoring device (as  
36 described in IC 35-38-2.5-3) that can transmit information  
37 twenty-four (24) hours each day regarding a person's precise  
38 location, if applicable.

39 (g) If a person being supervised on lifetime parole as described in  
40 subsection (e) is also required to be supervised by a court, a probation  
41 department, a community corrections program, a community transition  
42 program, or another similar program upon the person's release from

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1 imprisonment, the parole board may:

2 (1) supervise the person while the person is being supervised by

3 the other supervising agency; or

4 (2) permit the other supervising agency to exercise all or part of

5 the parole board's supervisory responsibility during the period in

6 which the other supervising agency is required to supervise the

7 person, if supervision by the other supervising agency will be, in

8 the opinion of the parole board:

9 (A) at least as stringent; and

10 (B) at least as effective;

11 as supervision by the parole board.

12 (h) The parole board is not required to supervise a person on

13 lifetime parole during any period in which the person is imprisoned.

14 However, upon the person's release from imprisonment, the parole

15 board shall recommence its supervision of a person on lifetime parole.

16 (i) If a court orders the parole board to place a sexually violent

17 predator whose sentence does not include a commitment to the

18 department of correction on lifetime parole under IC 35-38-1-29, the

19 parole board shall place the sexually violent predator on lifetime parole

20 and supervise the person in the same manner in which the parole board

21 supervises a sexually violent predator on lifetime parole whose

22 sentence includes a commitment to the department of correction.

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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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