

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 340**

Citations Affected: IC 11-11-5-1; IC 11-12-2; IC 11-13-3-3; IC 27-10-2; IC 35-33-8-7; IC 35-38; IC 35-50-6.

Synopsis: Parole, probation, community corrections, and bail. Conference committee report for ESB 340. 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 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. Provides that the requirement that courts include the costs of incarceration in a sentencing order expires June 30, 2012. Urges the legislative council to assign to the sentencing policy study committee the issue of whether a court should include the costs of incarceration in a sentencing order. **(This conference committee report: Narrows the**

requirements for when the parole board is required to conduct a community investigation. Removes a provision requiring 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 provision making it discretionary for a sexually violent predator to be subject to electronic monitoring. Provides that the requirement that courts include the costs of incarceration in a sentencing order expires June 30, 2012. Urges the legislative council to assign to the sentencing policy study committee the issue of whether a court should include the costs of incarceration in a sentencing order.)

Effective: Upon passage; July 1, 2010.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 340 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 11-11-5-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. **(a) This chapter**
4 **applies to persons:**
5 **(1) placed in a community corrections program; or**
6 **(2) assigned to a community transition program.**
7 **(b)** This chapter does not apply to persons released on parole.
8 SECTION 2. IC 11-12-2-1 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) For the purpose
10 of encouraging counties to develop a coordinated local
11 corrections-criminal justice system and providing effective alternatives
12 to imprisonment at the state level, the commissioner shall, out of funds
13 appropriated for such purposes, make grants to counties for the
14 establishment and operation of community corrections programs.
15 Appropriations intended for this purpose may not be used by the
16 department for any other purpose. Money appropriated to the
17 department of correction for the purpose of making grants under this
18 chapter and ~~charges made against a county~~ **any financial aid**
19 **payments suspended** under section ~~9~~; **6 of this chapter** do not revert
20 to the state general fund at the close of any fiscal year, but remain
21 available to the department of correction for its use in making grants

1 under this chapter.

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

6 SECTION 3. IC 11-12-2-4 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A county or
8 group of counties seeking financial aid under this chapter must apply
9 to the commissioner in a manner and form prescribed by the
10 commissioner. The application must include a community corrections
11 plan that has been approved by the community corrections board and
12 the county executive or, in a county having a consolidated city, by the
13 city-county council. No county may receive financial aid until its
14 application is approved by the commissioner.

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

17 (1) a description of each program for which financial aid is
18 sought;

19 (2) the purpose, objective, administrative structure, staffing, and
20 duration of the program;

21 **(3) a method to evaluate each component of the program to**
22 **determine the overall use of department approved best**
23 **practices for the program;**

24 ~~(3)~~ (4) the program's total operating budget, including all other
25 sources of anticipated income;

26 ~~(4)~~ (5) the amount of community involvement and client
27 participation in the program;

28 ~~(5)~~ (6) the location and description of facilities that will be used
29 in the program; and

30 ~~(6)~~ (7) the manner in which counties that jointly apply for
31 financial aid under this chapter will operate a coordinated
32 community corrections program.

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

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

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

43 SECTION 4. IC 11-12-2-5 IS AMENDED TO READ AS
44 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The department
45 shall do the following:

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

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

50 (3) Adopt under IC 4-22-2 rules governing application by
51 counties for financial aid under this chapter, including the content

- 1 of community corrections plans.
- 2 (4) Adopt under IC 4-22-2 rules governing the disbursement of
- 3 monies to a county and the county's certification of expenditures.
- 4 (5) Adopt under IC 4-22-2 minimum standards for the
- 5 establishment, operation, and evaluation of programs receiving
- 6 financial aid under this chapter. (These standards must be
- 7 sufficiently flexible to foster the development of new and
- 8 improved correctional practices.)
- 9 (6) Examine and either approve or disapprove applications for
- 10 financial aid. The department's approval or disapproval must be
- 11 based on this chapter and the rules adopted under this chapter.
- 12 (7) Keep the budget agency informed of the amount of
- 13 appropriation needed to adequately fund programs under this
- 14 chapter.
- 15 (8) Adopt under IC 4-22-2 a formula or other method of
- 16 determining a participating county's share of funds appropriated
- 17 for purposes of this chapter. This formula or method must be
- 18 approved by the budget agency before the formula is adopted and
- 19 must be designed to accurately reflect a county's correctional
- 20 needs and ability to pay.
- 21 (9) Keep counties informed of money appropriated for the
- 22 purposes of this chapter.
- 23 (10) Provide an approved training curriculum for community
- 24 corrections field officers.
- 25 **(11) Require community corrections programs to submit in**
- 26 **proposed budget requests an evaluation of the use of**
- 27 **department approved best practices for each community**
- 28 **corrections program component.**
- 29 (b) The commissioner may do the following:
- 30 (1) Visit and inspect any program receiving financial aid under
- 31 this chapter.
- 32 (2) Require a participating county or program to submit
- 33 information or statistics pertinent to the review of applications
- 34 and programs.
- 35 (3) Expend up to three percent (3%) of the money appropriated to
- 36 the department for community correction grants to provide
- 37 technical assistance, consultation, and training to counties and to
- 38 monitor and evaluate program delivery.
- 39 (c) Notwithstanding any law prohibiting advance payments, the
- 40 department of correction may advance grant money to a county or
- 41 group of counties in order to assist a community corrections program.
- 42 However, not more than twenty-five percent (25%) of the amount
- 43 awarded to a county or group of counties may be paid in advance.
- 44 (d) The commissioner shall disburse no more funds to any county
- 45 under this chapter than are required to fund the community corrections
- 46 plan.
- 47 SECTION 5. IC 11-13-3-3, AS AMENDED BY P.L.173-2006,
- 48 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 49 JULY 1, 2010]: Sec. 3. (a) A person sentenced under IC 35-50 shall be
- 50 released on parole or discharged from the person's term of
- 51 imprisonment under IC 35-50 without a parole release hearing.

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

- 13 (1) reports regarding the person's medical, psychological,
 14 educational, vocational, employment, economic, and social
 15 condition and history;
- 16 (2) official reports of the person's history of criminality;
- 17 (3) reports of earlier parole or probation experiences;
- 18 (4) reports concerning the person's present commitment that are
 19 relevant to the parole release determination;
- 20 (5) any relevant information submitted by or on behalf of the
 21 person being considered; and
- 22 (6) such other relevant information concerning the person as may
 23 be reasonably available.

24 (c) Unless the victim has requested in writing not to be notified, the
 25 department shall notify a victim of a felony (or the next of kin of the
 26 victim if the felony resulted in the death of the victim) or any witness
 27 involved in the prosecution of an offender imprisoned for the
 28 commission of a felony when the offender is:

- 29 (1) to be discharged from imprisonment;
- 30 (2) to be released on parole under IC 35-50-6-1;
- 31 (3) to have a parole release hearing under this chapter;
- 32 (4) to have a parole violation hearing;
- 33 (5) an escaped committed offender; or
- 34 (6) to be released from departmental custody under any temporary
 35 release program administered by the department, including the
 36 following:

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

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

42 (d) The department shall make the notification required under
 43 subsection (c):

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

48 The department shall supply the information to a victim (or a next of
 49 kin of a victim in the appropriate case) and a witness at the address
 50 supplied to the department by the victim (or next of kin) or witness. A
 51 victim (or next of kin) is responsible for supplying the department with

1 any change of address or telephone number of the victim (or next of
2 kin).

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

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

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

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

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

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

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

- 44 (1) reasonable, advance written notice, including the date, time,
45 and place of the hearing shall be provided to the person being
46 considered;
- 47 (2) the person being considered shall be given access, in accord
48 with IC 11-8-5, to records and reports considered by the parole
49 board in making its parole release decision;
- 50 (3) the person being considered may appear, speak in the person's
51 own behalf, and present documentary evidence;

- 1 (4) irrelevant, immaterial, or unduly repetitious evidence shall be
 2 excluded; and
- 3 (5) a record of the proceeding, to include the results of the parole
 4 board's investigation, notice of the hearing, and evidence adduced
 5 at the hearing, shall be made and preserved.
- 6 (j) If parole is denied, the parole board shall give the person written
 7 notice of the denial and the reasons for the denial. The parole board
 8 may not parole a person if it determines that there is substantial reason
 9 to believe that the person:
- 10 (1) will engage in further specified criminal activity; or
 11 (2) will not conform to appropriate specified conditions of parole.
- 12 (k) If parole is denied, the parole board shall conduct another parole
 13 release hearing not earlier than five (5) years after the date of the
 14 hearing at which parole was denied. However, the board may conduct
 15 a hearing earlier than five (5) years after denial of parole if the board:
- 16 (1) finds that special circumstances exist for the holding of a
 17 hearing; and
 18 (2) gives reasonable notice to the person being considered for
 19 parole.
- 20 (l) The parole board may parole a person who is outside Indiana on
 21 a record made by the appropriate authorities of the jurisdiction in
 22 which that person is imprisoned.
- 23 (m) If the board is considering the release on parole of an offender
 24 who is serving a sentence of life in prison, a determinate term of
 25 imprisonment of at least ten (10) years, or an indeterminate term of
 26 imprisonment with a minimum term of at least ten (10) years, in
 27 addition to the investigation required under subsection (b), **except as**
 28 **provided in subsection (n)**, the board ~~shall~~ **may** order and consider a
 29 community investigation, which ~~must~~ **may** include an investigation and
 30 report that substantially reflects the attitudes and opinions of:
- 31 (1) the community in which the crime committed by the offender
 32 occurred;
 33 (2) law enforcement officers who have jurisdiction in the
 34 community in which the crime occurred;
 35 (3) the victim of the crime committed by the offender, or if the
 36 victim is deceased or incompetent for any reason, the victim's
 37 relatives or friends; and
 38 (4) friends or relatives of the offender.
- 39 If the board reconsiders for release on parole an offender who was
 40 previously released on parole and whose parole was revoked under
 41 section 10 of this chapter, the board may use a community investigation
 42 prepared for an earlier parole hearing to comply with this subsection.
 43 However, the board shall accept and consider any supplements or
 44 amendments to any previous statements from the victim or the victim's
 45 relatives or friends.
- 46 **(n) The board shall conduct the community investigation**
 47 **described in subsection (m) if:**
- 48 **(1) the person was convicted of a crime of violence (as defined**
 49 **in IC 35-50-1-2); or**
 50 **(2) the person is a sex offender (as defined in IC 11-8-8-4.5).**
 51 ~~(m)~~ **(o)** As used in this section, "victim" means a person who has

1 suffered direct harm as a result of a violent crime (as defined in
2 IC 5-2-6.1-8).

3 SECTION 7. IC 27-10-2-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) An undertaking
5 is valid if it states:

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

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

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

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

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

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

35 SECTION 9. IC 27-10-2-12 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) **Only** if a
37 defendant does not appear as provided in the bond:

- 38 (1) the court shall:
 - 39 (A) issue a warrant for the defendant's arrest; and
 - 40 (B) order the bail agent and the surety to surrender the
41 defendant to the court immediately;
- 42 (2) the clerk shall, **less than thirty (30) days after the**
43 **defendant's failure to appear**, mail notice of the order to both:
 - 44 (A) the bail agent; and
 - 45 (B) the surety;
- 46 at each of the addresses indicated in the bonds; and
- 47 (3) if the defendant later is arrested or otherwise appears:
 - 48 (A) the court shall order that the surety be released from the
49 bond; and
 - 50 (B) after the court issues an order under clause (A), the
51 surety's original undertaking shall be reinstated if the surety

1 files a written request for the reinstatement of the undertaking
2 with the court.

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

5 (b) The bail agent or surety must:

6 (1) produce the defendant; or

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

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

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

10 (ii) because the defendant was at the scheduled time of
11 appearance or currently is in the custody of the United
12 States, a state, or a political subdivision of the United States
13 or a state; ~~or~~

14 (iii) because the required notice was not given; **or**

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

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

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

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

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

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

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

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

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

50 (d) If the bail agent or surety does not comply with the terms of
51 subsection (b) within three hundred sixty-five (365) days of the mailing

1 of notice required by subsection (a)(2), the court shall declare forfeited
 2 an amount equal to twenty percent (20%) of the face value of the bond.
 3 The court shall immediately enter judgment on the forfeiture, without
 4 pleadings and without change of judge or change of venue, and assess
 5 against the bail agent or surety all actual costs resulting from the
 6 defendant's failure to appear. These costs include jury fees, witness
 7 fees, and any other documented costs incurred by the court.

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

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

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

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

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

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

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

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

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

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

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

46 (3) the amount of the bond;

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

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

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

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

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

8 SECTION 10. IC 35-33-8-7 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) If a defendant:

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

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

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

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

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

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

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

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

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

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

47 SECTION 11. IC 35-38-1-5 IS AMENDED TO READ AS
 48 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) When the

49 defendant appears for sentencing, the court shall inform the defendant
 50 of the verdict of the jury or the finding of the court. The court shall
 51 afford counsel for the defendant an opportunity to speak on behalf of

1 the defendant. The defendant may also make a statement personally in
 2 the defendant's own behalf and, before pronouncing sentence, the court
 3 shall ask the defendant whether the defendant wishes to make such a
 4 statement. Sentence shall then be pronounced, unless a sufficient cause
 5 is alleged or appears to the court for delay in sentencing.

6 **(b) This subsection expires June 30, 2012.** A court that sentences
 7 a person to a term of imprisonment shall include the total costs of
 8 incarceration in the sentencing order. The court may not consider Class
 9 I credit under IC 35-50-6-3 in the calculation of the total costs of
 10 incarceration.

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

14 (1) the interior living area of the temporary or permanent
 15 residence of an offender; or

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

18 (A) halls or common areas outside the unit where the offender
 19 resides; or

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

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

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

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

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

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

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

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

51 **(4) The name, address, and telephone number of the**

1 offender's supervising community corrections program
2 officer for direct placement under this chapter.

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

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

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

15 (1) maintain or contract with a contract agency to maintain
16 constant supervision of each offender and alleged offender as
17 described in subsection (f); and

18 (2) have adequate staff available twenty-four (24) hours each
19 day to respond if an offender or alleged offender violates the
20 conditions of the direct placement order under this chapter.

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

24 (f) A contract agency:

25 (1) that maintains supervision of an offender or alleged
26 offender under subsection (e)(1) shall follow the rules set by
27 the local community corrections advisory board as a part of
28 community corrections program direct placement written
29 criteria and procedures; and

30 (2) shall notify the contracting community corrections
31 program within one (1) hour if the offender or alleged
32 offender violates the conditions of the direct placement order.
33 However, if a shorter notification time is required by the
34 community corrections program, a community corrections
35 advisory board must require a contract agency to comply
36 with the shorter notification requirement for a direct
37 placement order violation as if the offender were serving a
38 direct placement order as part of a community corrections
39 program.

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

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

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

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

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

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

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

20 SECTION 16. IC 35-50-6-1, AS AMENDED BY P.L.216-2007,
21 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2010]: Sec. 1. (a) Except as provided in subsection (d) or (e),
23 when a person imprisoned for a felony completes the person's fixed
24 term of imprisonment, less the credit time the person has earned with
25 respect to that term, the person shall be:

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

- 28 **(A) the person is being placed on parole for the first time;**
29 **(B) the person is not being placed on parole for a**
30 **conviction for a crime of violence (as defined in**
31 **IC 35-50-1-2);**
32 **(C) the person is not a sex offender (as defined in**
33 **IC 11-8-8-4.5); and**
34 **(D) in the six (6) months before being placed on parole, the**
35 **person has not violated a rule of the department of**
36 **correction or a rule of the penal facility in which the**
37 **person is imprisoned;**

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

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

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

46 (b) This subsection does not apply to a person described in
47 subsection (d), (e), or (f). A person released on parole remains on
48 parole from the date of release until the person's fixed term expires,
49 unless the person's parole is revoked or the person is discharged from
50 that term by the parole board. In any event, if the person's parole is not
51 revoked, the parole board shall discharge the person after the period set

1 under subsection (a) or the expiration of the person's fixed term,
2 whichever is shorter.

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

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

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

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

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

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

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

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

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

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

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

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

44 (2) permit the other supervising agency to exercise all or part of
45 the parole board's supervisory responsibility during the period in
46 which the other supervising agency is required to supervise the
47 person, if supervision by the other supervising agency will be, in
48 the opinion of the parole board:

49 (A) at least as stringent; and

50 (B) at least as effective;

51 as supervision by the parole board.

1 (h) The parole board is not required to supervise a person on
 2 lifetime parole during any period in which the person is imprisoned.
 3 However, upon the person's release from imprisonment, the parole
 4 board shall recommence its supervision of a person on lifetime parole.

5 (i) If a court orders the parole board to place a sexually violent
 6 predator whose sentence does not include a commitment to the
 7 department of correction on lifetime parole under IC 35-38-1-29, the
 8 parole board shall place the sexually violent predator on lifetime parole
 9 and supervise the person in the same manner in which the parole board
 10 supervises a sexually violent predator on lifetime parole whose
 11 sentence includes a commitment to the department of correction.

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

17 (1) A violation of one (1) or more rules of the department of
 18 correction.

19 (2) If the person is not committed to the department, a violation
 20 of one (1) or more rules of the penal facility in which the person
 21 is imprisoned.

22 (3) A violation of one (1) or more rules or conditions of a:

23 (A) community transition program; **or**

24 (B) **community corrections program.**

25 (4) If a court determines that a civil claim brought by the person
 26 in a state or an administrative court is frivolous, unreasonable, or
 27 groundless.

28 (5) If the person is a sex offender (as defined in IC 11-8-8-5) and
 29 refuses to register before being released from the department as
 30 required under IC 11-8-8-7.

31 (6) If the person is a sex offender (as defined in IC 11-8-8-5) and
 32 refuses to participate in a sex offender treatment program
 33 specifically offered to the sex offender by the department of
 34 correction while the person is serving a period of incarceration
 35 with the department of correction.

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

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

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

49 SECTION 18. [EFFECTIVE UPON PASSAGE] (a) **The general**
 50 **assembly urges the legislative council to assign to the sentencing**
 51 **policy study committee the issue of whether a sentencing court**

1 **should include the total costs of incarceration in its sentencing**
2 **order.**

3 **(b) This section expires December 31, 2010.**

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

6 SECTION 20. **An emergency is declared for this act.**

(Reference is to ESB 340 as reprinted February 23, 2010.)

Conference Committee Report
on
Engrossed Senate Bill 340

Signed by:

Senator Bray
Chairperson

Representative Lawson L

Senator Lanane

Representative Leonard

Senate Conferees

House Conferees