

# HOUSE BILL No. 1222

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-13-3-4; IC 35-38-2-2.2; IC 35-42-4-11.

**Synopsis:** Parolees, offenders against children, and school property. Allows certain parolees and probationers to reside within 1,000 feet of school property if the property is no longer used for school purposes. Permits an offender against children to reside within 1,000 feet of school property if the property is no longer used for school purposes.

**Effective:** July 1, 2011.

---

---

### Brown T

---

---

January 12, 2011, read first time and referred to Committee on Courts and Criminal Code.

---

---

C  
o  
p  
y



First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C  
O  
P  
Y

## HOUSE BILL No. 1222



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 11-13-3-4, AS AMENDED BY P.L.111-2009,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2011]: Sec. 4. (a) A condition to remaining on parole is that
- 4 the parolee not commit a crime during the period of parole.
- 5 (b) The parole board may also adopt, under IC 4-22-2, additional
- 6 conditions to remaining on parole and require a parolee to satisfy one
- 7 (1) or more of these conditions. These conditions must be reasonably
- 8 related to the parolee's successful reintegration into the community and
- 9 not unduly restrictive of a fundamental right.
- 10 (c) If a person is released on parole, the parolee shall be given a
- 11 written statement of the conditions of parole. Signed copies of this
- 12 statement shall be:
- 13 (1) retained by the parolee;
- 14 (2) forwarded to any person charged with the parolee's
- 15 supervision; and
- 16 (3) placed in the parolee's master file.
- 17 (d) The parole board may modify parole conditions if the parolee



1 receives notice of that action and had ten (10) days after receipt of the  
 2 notice to express the parolee's views on the proposed modification.  
 3 This subsection does not apply to modification of parole conditions  
 4 after a revocation proceeding under section 10 of this chapter.

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

8 (1) consider:

9 (A) the residence of the parolee prior to the parolee's  
 10 incarceration; and

11 (B) the parolee's place of employment; and

12 (2) assign the parolee to reside in the county where the parolee  
 13 resided prior to the parolee's incarceration unless assignment on  
 14 this basis would be detrimental to the parolee's successful  
 15 reintegration into the community.

16 (f) As a condition of parole, the parole board may require the  
 17 parolee to:

18 (1) periodically undergo a laboratory chemical test (as defined in  
 19 IC 14-15-8-1) or series of tests to detect and confirm the presence  
 20 of a controlled substance (as defined in IC 35-48-1-9); and

21 (2) have the results of any test under this subsection reported to  
 22 the parole board by the laboratory.

23 The parolee is responsible for any charges resulting from a test  
 24 required under this subsection. However, a person's parole may not be  
 25 revoked on the basis of the person's inability to pay for a test under this  
 26 subsection.

27 (g) As a condition of parole, the parole board:

28 (1) may require a parolee who is a sex offender (as defined in  
 29 IC 11-8-8-4.5) to:

30 (A) participate in a treatment program for sex offenders  
 31 approved by the parole board; and

32 (B) avoid contact with any person who is less than sixteen (16)  
 33 years of age unless the parolee:

34 (i) receives the parole board's approval; or

35 (ii) successfully completes the treatment program referred to  
 36 in clause (A); and

37 (2) shall:

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

41 (B) prohibit a parolee who is a sex offender from residing  
 42 within one thousand (1,000) feet of school property (as defined

**C**  
**O**  
**P**  
**Y**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

in IC 35-41-1-24.7) for the period of parole, unless:

- (i) the sex offender obtains written approval from the parole board; **or**
- (ii) the school property is no longer used for school purposes;**

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

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

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

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

(F) prohibit the sex offender from:

- (i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and
- (ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

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

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

- (i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.
- (j) As a condition of parole, the parole board:
  - (1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

C  
o  
p  
y



1 (2) may require a parolee who is a sex or violent offender (as  
2 defined in IC 11-8-8-5);  
3 to wear a monitoring device (as described in IC 35-38-2.5-3) that can  
4 transmit information twenty-four (24) hours each day regarding a  
5 person's precise location.

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

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

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

24 SECTION 2. IC 35-38-2-2.2, AS AMENDED BY P.L.119-2008,  
25 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2011]: Sec. 2.2. As a condition of probation for a sex offender  
27 (as defined in IC 11-8-8-4.5), the court shall:

28 (1) require the sex offender to register with the local law  
29 enforcement authority under IC 11-8-8;

30 (2) prohibit the sex offender from residing within one thousand  
31 (1,000) feet of school property (as defined in IC 35-41-1-24.7), as  
32 measured from the property line of the sex offender's residence to  
33 the property line of the school property, for the period of  
34 probation unless:

35 (A) the sex offender obtains written approval from the court;  
36 or

37 (B) the school property is no longer used for school  
38 purposes;

39 (3) require the sex offender to consent:

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

42 (B) to the installation on the sex offender's personal computer

C  
o  
p  
y



- 1 or device with Internet capability, at the sex offender's
- 2 expense, of one (1) or more hardware or software systems to
- 3 monitor Internet usage; and
- 4 (4) prohibit the sex offender from:
  - 5 (A) accessing or using certain web sites, chat rooms, or instant
  - 6 messaging programs frequented by children; and
  - 7 (B) deleting, erasing, or tampering with information on the sex
  - 8 offender's personal computer with intent to conceal an activity
  - 9 prohibited by clause (A).

10 If the court allows the sex offender to reside within one thousand  
 11 (1,000) feet of school property under subdivision (2)(A), the court shall  
 12 notify each school within one thousand (1,000) feet of the sex  
 13 offender's residence of the order. However, a court may not ~~allow~~ **give**  
 14 **written approval under subdivision (2)(A) allowing** a sex offender  
 15 who is a sexually violent predator (as defined in IC 35-38-1-7.5) or an  
 16 offender against children under IC 35-42-4-11 to reside within one  
 17 thousand (1,000) feet of school property.

18 SECTION 3. IC 35-42-4-11, AS AMENDED BY P.L.216-2007,  
 19 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2011]: Sec. 11. (a) As used in this section, and except as  
 21 provided in subsection (d), "offender against children" means a person  
 22 required to register as a sex or violent offender under IC 11-8-8 who  
 23 has been:

- 24 (1) found to be a sexually violent predator under IC 35-38-1-7.5;
- 25 or
- 26 (2) convicted of one (1) or more of the following offenses:
  - 27 (A) Child molesting (IC 35-42-4-3).
  - 28 (B) Child exploitation (IC 35-42-4-4(b)).
  - 29 (C) Child solicitation (IC 35-42-4-6).
  - 30 (D) Child seduction (IC 35-42-4-7).
  - 31 (E) Kidnapping (IC 35-42-3-2), if the victim is less than
  - 32 eighteen (18) years of age and the person is not the child's
  - 33 parent or guardian.
  - 34 (F) Attempt to commit or conspiracy to commit an offense
  - 35 listed in clauses (A) through (E).
  - 36 (G) An offense in another jurisdiction that is substantially
  - 37 similar to an offense described in clauses (A) through (F).

38 A person is an offender against children by operation of law if the  
 39 person meets the conditions described in subdivision (1) or (2) at any  
 40 time.

- 41 (b) As used in this section, "reside" means to spend more than three
- 42 (3) nights in:

C  
o  
p  
y



1 (1) a residence; or  
 2 (2) if the person does not reside in a residence, a particular  
 3 location;  
 4 in any thirty (30) day period.  
 5 (c) An offender against children who knowingly or intentionally:  
 6 (1) resides within one thousand (1,000) feet of:  
 7 (A) school property, not including property:  
 8 (i) of an institution providing post-secondary education; or  
 9 (ii) **that is no longer used for school purposes;**  
 10 (B) a youth program center; or  
 11 (C) a public park; or  
 12 (2) establishes a residence within one (1) mile of the residence of  
 13 the victim of the offender's sex offense;  
 14 commits a sex offender residency offense, a Class D felony.  
 15 (d) This subsection does not apply to an offender against children  
 16 who has two (2) or more unrelated convictions for an offense described  
 17 in subsection (a). A person who is an offender against children may  
 18 petition the court to consider whether the person should no longer be  
 19 considered an offender against children. The person may file a petition  
 20 under this subsection not earlier than ten (10) years after the person is  
 21 released from incarceration, probation, or parole, whichever occurs  
 22 last. A person may file a petition under this subsection not more than  
 23 one (1) time per year. A court may dismiss a petition filed under this  
 24 subsection or conduct a hearing to determine if the person should no  
 25 longer be considered an offender against children. If the court conducts  
 26 a hearing, the court shall appoint two (2) psychologists or psychiatrists  
 27 who have expertise in criminal behavioral disorders to evaluate the  
 28 person and testify at the hearing. After conducting the hearing and  
 29 considering the testimony of the two (2) psychologists or psychiatrists,  
 30 the court shall determine whether the person should no longer be  
 31 considered an offender against children. If a court finds that the person  
 32 should no longer be considered an offender against children, the court  
 33 shall send notice to the department of correction that the person is no  
 34 longer considered an offender against children.

C  
O  
P  
Y

