



January 13, 2011

SENATE BILL No. 43

DIGEST OF SB 43 (Updated January 11, 2011 11:49 am - DI 106)

Citations Affected: IC 11-13.

Synopsis: GPS monitoring and parole. Specifies that the parole board shall require that certain persons convicted of child molesting be required to wear a GPS tracking device; and permits the parole board to require other sex and violent offenders be required to wear a GPS tracking device. Provides that the parole board may remove the requirement that a parolee wear a GPS tracking device, and that in making this determination, the parole board must consider a validated recidivism risk assessment. (The introduced version of this bill was prepared by the criminal law and sentencing policy study committee.)

Effective: July 1, 2011.

Steele, Young R

January 5, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 12, 2011, amended, reported favorably — Do Pass.

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SB 43—LS 6185/DI 106+



January 13, 2011

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.

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SENATE BILL No. 43

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 11-13-3-4, 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

SB 43—LS 6185/DI 106+



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

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1 in IC 35-41-1-24.7) for the period of parole, unless the sex
 2 offender obtains written approval from the parole board;
 3 (C) prohibit a parolee who is a sex offender convicted of a sex
 4 offense (as defined in IC 35-38-2-2.5) from residing within
 5 one (1) mile of the victim of the sex offender's sex offense
 6 unless the sex offender obtains a waiver under IC 35-38-2-2.5;
 7 (D) prohibit a parolee who is a sex offender from owning,
 8 operating, managing, being employed by, or volunteering at
 9 any attraction designed to be primarily enjoyed by children
 10 less than sixteen (16) years of age;
 11 (E) require a parolee who is a sex offender to consent:
 12 (i) to the search of the sex offender's personal computer at
 13 any time; and
 14 (ii) to the installation on the sex offender's personal
 15 computer or device with Internet capability, at the sex
 16 offender's expense, of one (1) or more hardware or software
 17 systems to monitor Internet usage; and
 18 (F) prohibit the sex offender from:
 19 (i) accessing or using certain web sites, chat rooms, or
 20 instant messaging programs frequented by children; and
 21 (ii) deleting, erasing, or tampering with information on the
 22 sex offender's personal computer with intent to conceal an
 23 activity prohibited by item (i).
 24 The parole board may not grant a sexually violent predator (as defined
 25 in IC 35-38-1-7.5) or a sex offender who is an offender against children
 26 under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the
 27 parole board allows the sex offender to reside within one thousand
 28 (1,000) feet of school property under subdivision (2)(B), the parole
 29 board shall notify each school within one thousand (1,000) feet of the
 30 sex offender's residence of the order.
 31 (h) The address of the victim of a parolee who is a sex offender
 32 convicted of a sex offense (as defined in IC 35-38-2-2.5) is
 33 confidential, even if the sex offender obtains a waiver under
 34 IC 35-38-2-2.5.
 35 (i) As a condition of parole, the parole board may require a parolee
 36 to participate in a reentry court program.
 37 (j) As a condition of parole, the parole board:
 38 (1) shall require a parolee who is a ~~sexually violent predator~~
 39 ~~under IC 35-38-1-7.5~~; and
 40 (2) may require a parolee who is a ~~sex or violent offender (as~~
 41 ~~defined in IC 11-8-8-5)~~;
 42 ~~to wear a monitoring device (as described in IC 35-38-2.5-3) that can~~

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1 transmit information twenty-four (24) hours each day regarding a
2 person's precise location. has been convicted of child molesting
3 under:

4 (A) IC 35-42-4-3(a)(1) through IC 35-42-4-3(a)(4); or
5 (B) IC 35-42-4-3(b)(1) through IC 35-42-4-3(b)(3); and
6 (2) may require a parolee who has been convicted of a sex or
7 violent offense that is not described in subdivision (1);
8 to wear a monitoring device (as described in IC 35-38-2.5-3) that
9 can transmit information twenty-four (24) hours each day
10 regarding a person's precise location. The parole board may
11 remove the requirement that a parolee be required to wear a
12 monitoring device. In making a determination under this
13 subsection, the parole board shall consider a validated recidivism
14 risk assessment.

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

20 (l) As a condition of parole, the parole board may prohibit a parolee
21 convicted of an offense under IC 35-46-3 from owning, harboring, or
22 training an animal, and, if the parole board prohibits a parolee
23 convicted of an offense under IC 35-46-3 from having direct or indirect
24 contact with an individual, the parole board may also prohibit the
25 parolee from having direct or indirect contact with any animal
26 belonging to the individual.

27 (m) A parolee may be responsible for the reasonable expenses, as
28 determined by the department, of the parolee's participation in a
29 treatment or other program required as a condition of parole under this
30 section. However, a person's parole may not be revoked solely on the
31 basis of the person's inability to pay for a program required as a
32 condition of parole under this section.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 43, 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 4, line 10, delete ", if the department's director" and insert ".".

Page 4, delete lines 11 through 12.

Page 4, line 13, delete "device."

Page 4, line 14, delete "upon" and insert ". **In making a determination under this subsection, the parole board shall consider**".

Page 4, delete line 15.

Page 4, line 16, delete "based upon".

and when so amended that said bill do pass.

(Reference is to SB 43 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 10, Nays 0.

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