



Reprinted  
February 1, 2012

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## SENATE BILL No. 376

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DIGEST OF SB 376 (Updated January 31, 2012 2:41 pm - DI 106)

**Citations Affected:** IC 11-9; IC 11-13.

**Synopsis:** Release of long term inmates. Prohibits the parole board from making a clemency recommendation concerning certain inmates convicted of certain serious crimes, and prohibits the parole board from conducting an investigation or holding a hearing concerning these inmates unless requested to do so by the governor. Provides that the parole board shall transfer a long term inmate to a transitional program if the inmate meets certain criteria, and specifies that the parole board shall release a long term inmate who has completed a transitional program if the inmate satisfies certain conditions, including successful completion of a transitional program. Repeals superseded provisions.

**Effective:** July 1, 2012.

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### Waterman, Steele

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January 9, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.  
January 24, 2012, amended, reported favorably — Do Pass.  
January 31, 2012, read second time, amended, ordered engrossed.

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SB 376—LS 6781/DI 107+



Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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## SENATE BILL No. 376

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 11-9-2-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) As used in this section,  
3 "victim" means a person who has suffered direct harm as a result of a  
4 violent crime (as defined in IC 5-2-6.1-8).  
5 (b) **Except as provided in subsection (d)**, the parole board shall  
6 submit to the governor its recommendation regarding an application for  
7 commutation of sentence, pardon, reprieve, or remission of fine or  
8 forfeiture. Before submitting its recommendation, the parole board  
9 shall do all of the following:  
10 (1) Notify:  
11 (A) the sentencing court;  
12 (B) the victim of the crime for which the person was convicted  
13 (or the next of kin of the victim if the victim is deceased or  
14 incompetent for any reason), unless the victim has made a  
15 written request not to be notified; and  
16 (C) the prosecuting attorney of the county where the  
17 conviction was obtained.

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- 1 (2) Conduct an investigation, which must include the collection
- 2 of records, reports, and other information relevant to
- 3 consideration of the application.
- 4 (3) Conduct a hearing where the petitioner and other interested
- 5 persons are given an opportunity to appear and present
- 6 information regarding the application. The hearing may be
- 7 conducted in an informal manner without regard to formal rules
- 8 of evidence.
- 9 (c) The notice to a victim or the next of kin of a victim that is sent
- 10 under subsection (b)(1) must comply with the requirements for notices
- 11 to victims that are established under IC 11-13-3-3.

12 **(d) The parole board may not make a recommendation to the**

13 **governor regarding an application for commutation of sentence,**

14 **pardon, reprieve, or remission of fine or forfeiture concerning a**

15 **person who has:**

- 16 (1) received a sentence of life without the possibility of parole
- 17 under IC 35-50; or
- 18 (2) been convicted of any of the following:
- 19 (A) Child molesting (IC 35-42-4-3) as a Class A felony.
- 20 (B) Murder (IC 35-42-1-1).
- 21 (C) Voluntary manslaughter (IC 35-42-1-3).
- 22 (D) Battery (IC 35-42-2-1) as a Class A felony.
- 23 (E) Criminal deviate conduct (IC 35-42-4-2) as a Class A
- 24 felony.
- 25 (F) Kidnapping (IC 35-42-3-2) as a Class A felony.
- 26 (G) Neglect of a dependent (IC 35-46-1-4) as a Class A
- 27 felony.
- 28 (H) Robbery (IC 35-42-5-1) as a Class A felony.
- 29 (I) Rape (IC 35-42-4-1) as a Class A felony.
- 30 (J) An offense substantially similar to the offenses
- 31 described in this subdivision.

32 **If the parole board receives an application from a person described**

33 **in subdivision (1) or (2), the parole board shall forward the**

34 **application to the governor without recommendation. Unless**

35 **requested to do so by the governor, the parole board may not**

36 **conduct an investigation under subsection (b)(2) or conduct a**

37 **hearing under subsection (b)(3) concerning a person described in**

38 **subdivision (1) or (2).**

39 SECTION 2. IC 11-13-9-2, AS AMENDED BY P.L.228-2011,

40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

41 JULY 1, 2012]: Sec. 2. (a) As used in this section, **the years of an**

42 **inmate's confinement is are "consecutive" if:**

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- 1 (1) the inmate has remained in the continuous custody of the
- 2 department for the requisite length of time; or
- 3 (2) the inmate would have remained in the continuous custody of
- 4 the department for the requisite length of time, but:
- 5 (A) was released from the custody of the department on the
- 6 basis of an erroneous court order; and
- 7 (B) returned to the custody of the department not later than
- 8 seventy-two (72) hours after the erroneous court order was
- 9 rescinded.
- 10 (b) Notwithstanding any other law, as soon as practicable after an
- 11 inmate has been confined to the custody of the department for:
- 12 (1) twenty-five (25) consecutive years;
- 13 (2) twenty-four (24) consecutive years if the inmate has received
- 14 one (1) year of credit time under IC 35-50-6-3.3;
- 15 (3) twenty-three (23) consecutive years if the inmate has received
- 16 two (2) years of credit time under IC 35-50-6-3.3;
- 17 (4) twenty-two (22) consecutive years if the inmate has received
- 18 three (3) years of credit time under IC 35-50-6-3.3; or
- 19 (5) twenty-one (21) consecutive years if the inmate has received
- 20 four (4) years of credit time under IC 35-50-6-3.3;
- 21 the department shall identify the inmate to the parole board and provide
- 22 the parole board with the inmate's offender progress report.
- 23 SECTION 3. IC 11-13-9-3, AS ADDED BY P.L.119-2008,
- 24 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 JULY 1, 2012]: Sec. 3. Upon receipt of the material described in
- 26 section 2 of this chapter, the parole board shall set a hearing to
- 27 determine whether the circumstances warrant the inmate's ~~discharge~~
- 28 **transfer or release. from the custody of the department.**
- 29 SECTION 4. IC 11-13-9-4, AS ADDED BY P.L.119-2008,
- 30 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 31 JULY 1, 2012]: Sec. 4. The parole board shall consider all relevant
- 32 factors in determining whether the inmate is to be ~~discharged~~
- 33 **transferred or released** under this chapter and must consider a
- 34 community investigation report submitted to the parole board. The
- 35 parole board shall give special consideration to an inmate who
- 36 demonstrates each of the following:
- 37 (1) A good conduct history during confinement, **including the**
- 38 **successful completion of a transitional program, if applicable.**
- 39 (2) Proof that the inmate will have suitable living quarters in a
- 40 community if the inmate is ~~discharged~~ **released.**
- 41 (3) Proof that one (1) or more employers in the area in which the
- 42 inmate would reside if ~~discharged~~ **released** have offered to

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employ the inmate for at least thirty (30) hours a week on the same terms as the employer employs other employees.

(4) Proof that the inmate:

(A) is at least a high school graduate; or

(B) has obtained:

(i) a general equivalency degree; or

(ii) a state of Indiana general educational development (GED) diploma.

SECTION 5. IC 11-13-9-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 4.5. (a) As used in this section, "transitional program" means a program operated by the department that helps an inmate reenter the community after a period of incarceration and that may provide a range of necessary reintegration services. The term includes an alternative transitional program, as determined by the parole board, whose conditions may include home detention or GPS monitoring for an inmate who has been denied participation in a traditional transitional program due to a medical condition.**

**(b) If the parole board determines that the inmate:**

**(1) has been properly rehabilitated; and**

**(2) has suitable plans to carry out if released;**

**the parole board shall transfer the inmate to a transitional program for a period of one (1) year.**

**(c) An inmate who successfully completes a transitional program is eligible to seek release under section 5 of this chapter.**

SECTION 6. IC 11-13-9-5, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 5. (a) If the parole board determines that the inmate:**

**(1) has been properly rehabilitated; and**

**(2) has suitable plans to carry out if ~~discharged~~ released; and**

**(3) has successfully completed a transitional program under section 4.5 of this chapter;**

**the parole board shall ~~discharge~~ release the inmate from the custody of the department. An inmate who is released from confinement under this subsection must be placed on parole as described in subsection (b).**

**(b) An inmate who is ~~discharged~~ released from the department under this section shall be placed on parole as follows:**

**(1) An inmate who is required to be placed on parole for the remainder of the inmate's life under IC 35-50-6-1(e) shall be placed on parole for the remainder of the inmate's life.**

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1           (2) An inmate who is:  
 2           (A) not an inmate described in subdivision (1); and  
 3           (B) not required to serve a period of probation;  
 4           shall be placed on parole for ~~two (2) years~~ **one (1) year**.  
 5           SECTION 7. IC 11-13-9-6, AS ADDED BY P.L.119-2008,  
 6           SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7           JULY 1, 2012]: Sec. 6. If the parole board denies an inmate's request  
 8           to be ~~discharged~~ **transferred or released** under this chapter, the  
 9           inmate may petition for a new review not earlier than one (1) year after  
 10          the parole board denies the request.  
 11          SECTION 8. IC 11-13-9-7, AS ADDED BY P.L.119-2008,  
 12          SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13          JULY 1, 2012]: Sec. 7. The ~~parole board or the~~ department shall notify  
 14          a registered crime victim in accordance with IC 11-8-7-2 if an inmate  
 15          is ~~discharged~~ **released or transferred** under this chapter.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 376, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 376 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 1.

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 SENATE MOTION

Madam President: I move that Senate Bill 376 be amended to read as follows:

Page 2, line 15, after "has" insert ":

**(1)**".

Page 2, line 16, delete "." and insert "**under IC 35-50; or**

**(2) been convicted of any of the following:**

**(A) Child molesting (IC 35-42-4-3) as a Class A felony.**

**(B) Murder (IC 35-42-1-1).**

**(C) Voluntary manslaughter (IC 35-42-1-3).**

**(D) Battery (IC 35-42-2-1) as a Class A felony.**

**(E) Criminal deviate conduct (IC 35-42-4-2) as a Class A felony.**

**(F) Kidnapping (IC 35-42-3-2) as a Class A felony.**

**(G) Neglect of a dependent (IC 35-46-1-4) as a Class A felony.**

**(H) Robbery (IC 35-42-5-1) as a Class A felony.**

**(I) Rape (IC 35-42-4-1) as a Class A felony.**

**(J) An offense substantially similar to the offenses described in this subdivision."**

Page 2, line 16, beginning with "If" begin a new line blocked left.

Page 2, line 17, delete "who has received a sentence of life without the possibility of parole," and insert "**described in subdivision (1) or (2),**".

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Page 2, line 22, delete "who has received a sentence of life without the" and insert "**described in subdivision (1) or (2).**".

Page 2, delete line 23.

(Reference is to SB 376 as printed January 25, 2012.)

STEELE

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SENATE MOTION

Madam President: I move that Senate Bill 376 be amended to read as follows:

Page 3, line 6, delete ".".

Page 3, line 6, reset in roman "to the parole board and".

Page 3, reset in roman line 7.

Page 3, delete lines 8 through 42, begin a new paragraph and insert:  
 "SECTION 3. IC 11-13-9-3, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. Upon receipt of the material described in section 2 of this chapter, the parole board shall set a hearing to determine whether the circumstances warrant the inmate's ~~discharge transfer or release. from the custody of the department.~~

SECTION 4. IC 11-13-9-4, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The parole board shall consider all relevant factors in determining whether the inmate is to be ~~discharged~~ **transferred or released** under this chapter and must consider a community investigation report submitted to the parole board. The parole board shall give special consideration to an inmate who demonstrates each of the following:

- (1) A good conduct history during confinement, **including the successful completion of a transitional program, if applicable.**
- (2) Proof that the inmate will have suitable living quarters in a community if the inmate is ~~discharged~~ **released.**
- (3) Proof that one (1) or more employers in the area in which the inmate would reside if ~~discharged~~ **released** have offered to employ the inmate for at least thirty (30) hours a week on the same terms as the employer employs other employees.
- (4) Proof that the inmate:
  - (A) is at least a high school graduate; or
  - (B) has obtained:



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- (i) a general equivalency degree; or
- (ii) a state of Indiana general educational development (GED) diploma.

SECTION 5. IC 11-13-9-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2012]: **Sec. 4.5. (a) As used in this section, "transitional program" means a program operated by the department that helps an inmate reenter the community after a period of incarceration and that may provide a range of necessary reintegration services. The term includes an alternative transitional program, as determined by the parole board, whose conditions may include home detention or GPS monitoring for an inmate who has been denied participation in a traditional transitional program due to a medical condition.**

**(b) If the parole board determines that the inmate:**

- (1) has been properly rehabilitated; and**
- (2) has suitable plans to carry out if released;**

**the parole board shall transfer the inmate to a transitional program for a period of one (1) year.**

**(c) An inmate who successfully completes a transitional program is eligible to seek release under section 5 of this chapter.**

SECTION 6. IC 11-13-9-5, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 5. (a) If the parole board determines that the inmate:**

- (1) has been properly rehabilitated; ~~and~~**
- (2) has suitable plans to carry out if ~~discharged;~~ released; and**
- (3) has successfully completed a transitional program under section 4.5 of this chapter;**

**the parole board shall ~~discharge~~ release the inmate from the custody of the department. An inmate who is released from confinement under this subsection must be placed on parole as described in subsection (b).**

**(b) An inmate who is ~~discharged~~ released from the department under this section shall be placed on parole as follows:**

- (1) An inmate who is required to be placed on parole for the remainder of the inmate's life under IC 35-50-6-1(e) shall be placed on parole for the remainder of the inmate's life.**
- (2) An inmate who is:**
  - (A) not an inmate described in subdivision (1); and**
  - (B) not required to serve a period of probation;****shall be placed on parole for ~~two (2) years;~~ one (1) year.**

SECTION 7. IC 11-13-9-6, AS ADDED BY P.L.119-2008,



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SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. If the parole board denies an inmate's request to be ~~discharged~~ **transferred or released** under this chapter, the inmate may petition for a new review not earlier than one (1) year after the parole board denies the request."

Page 4, delete lines 1 through 17.

Page 4, line 22, strike "discharged."

Page 4, line 22, delete "or".

Page 4, line 22, after "released" insert "**or transferred**".

Renumber all SECTIONS consecutively.

(Reference is to SB 376 as printed January 25, 2012.)

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