



February 15, 2013

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## HOUSE BILL No. 1053

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DIGEST OF HB 1053 (Updated February 13, 2013 3:42 pm - DI 69)

**Citations Affected:** IC 11-8; IC 35-38; IC 35-42; IC 35-50; IC 36-2.

**Synopsis:** Sex offender registration. Requires the department of correction to remove from the public portal of the sex offender registry the information relating to a sex or violent offender who is deceased or no longer required to register. Requires persons convicted of kidnapping or criminal confinement to register only if a court finds by clear and convincing evidence that the offense was committed for a sexual purpose. Adds the vehicle identification number of the vehicle owned or regularly operated by the offender to the information required for sex offender registration, requires an offender to report certain information changes within 72 hours, and provides that an offender's driver's license or identification card must contain the offender's current address and physical description. Provides that an offender who is scheduled to move must register in the appropriate location within 72 hours. Removes the requirement that a local law enforcement authority contact offenders by mail and permits local law enforcement authorities to contact the offenders in a manner approved by the department of correction. Makes conforming amendments and technical corrections. (The introduced version of this bill was prepared by the criminal law and sentencing policy study committee).

**Effective:** July 1, 2013.

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**Steuerwald, Dermody, Lawson L**

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January 7, 2013, read first time and referred to Committee on Courts and Criminal Code.  
February 14, 2013, amended, reported — Do Pass.

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HB 1053—LS 6386/DI 106+



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February 15, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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## HOUSE BILL No. 1053

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 11-8-2-13, AS AMENDED BY P.L.216-2007,  
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2013]: Sec. 13. (a) The Indiana sex and violent offender  
4 registry established under IC 36-2-13-5.5 and maintained by the  
5 department under section 12.4 of this chapter must include the names  
6 of each offender who is or has been required to register under  
7 IC 11-8-8.

8 (b) The department shall do the following:  
9 (1) Ensure that the Indiana sex and violent offender registry is  
10 updated at least once per day with information provided by a local  
11 law enforcement authority (as defined in IC 11-8-8-2).  
12 (2) Publish the Indiana sex and violent offender registry on the  
13 Internet through the computer gateway administered by the office  
14 of technology established by IC 4-13.1-2-1, and ensure that the  
15 Indiana sex and violent offender registry displays the following or  
16 similar words:  
17 "Based on information submitted to law enforcement, a person

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1 whose name appears in this registry has been convicted of a  
 2 sex or violent offense or has been adjudicated a delinquent  
 3 child for an act that would be a sex or violent offense if  
 4 committed by an adult."

5 **(3) If:**

6 **(A) an offender's registration period has expired as**  
 7 **described in IC 11-8-8-19; or**

8 **(B) an offender is deceased;**

9 **ensure that the offender's information is no longer published**  
 10 **to the public portal of the sex and violent offender registry**  
 11 **Internet web site established under IC 36-2-13-5.5.**

12 SECTION 2. IC 11-8-8-4.5, AS AMENDED BY P.L.72-2012,  
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2013]: Sec. 4.5. (a) Except as provided in section 22 of this  
 15 chapter, as used in this chapter, "sex offender" means a person  
 16 convicted of any of the following offenses:

17 (1) Rape (IC 35-42-4-1).

18 (2) Criminal deviate conduct (IC 35-42-4-2).

19 (3) Child molesting (IC 35-42-4-3).

20 (4) Child exploitation (IC 35-42-4-4(b)).

21 (5) Vicarious sexual gratification (including performing sexual  
 22 conduct in the presence of a minor) (IC 35-42-4-5).

23 (6) Child solicitation (IC 35-42-4-6).

24 (7) Child seduction (IC 35-42-4-7).

25 (8) Sexual misconduct with a minor as a Class A, Class B, or  
 26 Class C felony (IC 35-42-4-9), unless:

27 (A) the person is convicted of sexual misconduct with a minor  
 28 as a Class C felony;

29 (B) the person is not more than:

30 (i) four (4) years older than the victim if the offense was  
 31 committed after June 30, 2007; or

32 (ii) five (5) years older than the victim if the offense was  
 33 committed before July 1, 2007; and

34 (C) the sentencing court finds that the person should not be  
 35 required to register as a sex offender.

36 (9) Incest (IC 35-46-1-3).

37 (10) Sexual battery (IC 35-42-4-8).

38 (11) Kidnapping (IC 35-42-3-2), if:

39 (A) the victim is less than eighteen (18) years of age; and ~~the~~  
 40 ~~person who kidnapped the victim is not the victim's parent or~~  
 41 ~~guardian.~~

42 (B) the court finds by clear and convincing evidence during

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- 1                   **the sentencing hearing that the offense was committed for**
- 2                   **a sexual purpose.**
- 3                   (12) Criminal confinement (IC 35-42-3-3), if:
- 4                    (A) the victim is less than eighteen (18) years of age; and ~~the~~
- 5                    person who confined or removed the victim is not the victim's
- 6                    parent or guardian;
- 7                    (B) **the court finds by clear and convincing evidence during**
- 8                    **the sentencing hearing that the offense was committed for**
- 9                    **a sexual purpose.**
- 10                  (13) Possession of child pornography (IC 35-42-4-4(c)).
- 11                  (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
- 12                  (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
- 13                  victim is less than eighteen (18) years of age.
- 14                  (16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
- 15                  (17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less
- 16                  than eighteen (18) years of age.
- 17                  (18) Sexual misconduct by a service provider with a detained
- 18                  child (~~IC 35-44-1-5(c)~~). **(IC 35-44.1-3-10(c))**.
- 19                  (19) An attempt or conspiracy to commit a crime listed in
- 20                  subdivisions (1) through (18).
- 21                  (20) A crime under the laws of another jurisdiction, including a
- 22                  military court, that is substantially equivalent to any of the
- 23                  offenses listed in subdivisions (1) through (19).
- 24                  (b) The term includes:
- 25                    (1) a person who is required to register as a sex offender in any
- 26                    jurisdiction; and
- 27                    (2) a child who has committed a delinquent act and who:
- 28                      (A) is at least fourteen (14) years of age;
- 29                      (B) is on probation, is on parole, is discharged from a facility
- 30                      by the department of correction, is discharged from a secure
- 31                      private facility (as defined in IC 31-9-2-115), or is discharged
- 32                      from a juvenile detention facility as a result of an adjudication
- 33                      as a delinquent child for an act that would be an offense
- 34                      described in subsection (a) if committed by an adult; and
- 35                      (C) is found by a court by clear and convincing evidence to be
- 36                      likely to repeat an act that would be an offense described in
- 37                      subsection (a) if committed by an adult.
- 38                  (c) In making a determination under subsection (b)(2)(C), the court
- 39                  shall consider expert testimony concerning whether a child is likely to
- 40                  repeat an act that would be an offense described in subsection (a) if
- 41                  committed by an adult.

SECTION 3. IC 11-8-8-5, AS AMENDED BY P.L.1-2012,



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1 SECTION 3, AND AS AMENDED BY P.L.72-2012, SECTION 2, IS  
 2 CORRECTED AND AMENDED TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Except as provided in section  
 4 22 of this chapter, as used in this chapter, "sex or violent offender"  
 5 means a person convicted of any of the following offenses:

- 6 (1) Rape (IC 35-42-4-1).  
 7 (2) Criminal deviate conduct (IC 35-42-4-2).  
 8 (3) Child molesting (IC 35-42-4-3).  
 9 (4) Child exploitation (IC 35-42-4-4(b)).  
 10 (5) Vicarious sexual gratification (including performing sexual  
 11 conduct in the presence of a minor) (IC 35-42-4-5).  
 12 (6) Child solicitation (IC 35-42-4-6).  
 13 (7) Child seduction (IC 35-42-4-7).  
 14 (8) Sexual misconduct with a minor as a Class A, Class B, or  
 15 Class C felony (IC 35-42-4-9), unless:  
 16 (A) the person is convicted of sexual misconduct with a minor  
 17 as a Class C felony;  
 18 (B) the person is not more than:  
 19 (i) four (4) years older than the victim if the offense was  
 20 committed after June 30, 2007; or  
 21 (ii) five (5) years older than the victim if the offense was  
 22 committed before July 1, 2007; and  
 23 (C) the sentencing court finds that the person should not be  
 24 required to register as a sex offender.  
 25 (9) Incest (IC 35-46-1-3).  
 26 (10) Sexual battery (IC 35-42-4-8).  
 27 (11) Kidnapping (IC 35-42-3-2), ~~if the victim is less than eighteen~~  
 28 ~~(18) years of age, and the person who kidnapped the victim is not~~  
 29 ~~the victim's parent or guardian: **if the court finds by clear and**~~  
 30 ~~**convincing evidence during the sentencing hearing that the**~~  
 31 ~~**offense was committed for a sexual purpose.**~~  
 32 (12) Criminal confinement (IC 35-42-3-3), if:  
 33 (A) the victim is less than eighteen (18) years of age; and ~~the~~  
 34 ~~person who confined or removed the victim is not the victim's~~  
 35 ~~parent or guardian:~~  
 36 **(B) the court finds by clear and convincing evidence during**  
 37 **the sentencing hearing that the offense was committed for**  
 38 **a sexual purpose.**  
 39 (13) Possession of child pornography (IC 35-42-4-4(c)).  
 40 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.  
 41 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the  
 42 victim is less than eighteen (18) years of age.

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- 1 (16) Sexual trafficking of a minor ~~(IC 35-42-3.5-1(b))~~;
- 2 ~~(IC 35-42-3.5-1(c))~~.
- 3 (17) Human trafficking ~~(IC 35-42-3.5-1(c)(3))~~
- 4 ~~(IC 35-42-3.5-1(d)(3))~~ if the victim is less than eighteen (18)
- 5 years of age.
- 6 (18) Murder (IC 35-42-1-1).
- 7 (19) Voluntary manslaughter (IC 35-42-1-3).
- 8 ~~(20) Sexual misconduct by a service provider with a detained~~
- 9 ~~child (IC 35-44-1-5(e))~~. **(IC 35-44.1-3-10(c))**.
- 10 ~~(20) (21) An attempt or conspiracy to commit a crime listed in~~
- 11 ~~subdivisions (1) through (19): (20)~~.
- 12 ~~(21) (22) A crime under the laws of another jurisdiction, including~~
- 13 ~~a military court, that is substantially equivalent to any of the~~
- 14 ~~offenses listed in subdivisions (1) through (20): (21)~~.
- 15 (b) The term includes:
- 16 (1) a person who is required to register as a sex or violent
- 17 offender in any jurisdiction; and
- 18 (2) a child who has committed a delinquent act and who:
- 19 (A) is at least fourteen (14) years of age;
- 20 (B) is on probation, is on parole, is discharged from a facility
- 21 by the department of correction, is discharged from a secure
- 22 private facility (as defined in IC 31-9-2-115), or is discharged
- 23 from a juvenile detention facility as a result of an adjudication
- 24 as a delinquent child for an act that would be an offense
- 25 described in subsection (a) if committed by an adult; and
- 26 (C) is found by a court by clear and convincing evidence to be
- 27 likely to repeat an act that would be an offense described in
- 28 subsection (a) if committed by an adult.
- 29 (c) In making a determination under subsection (b)(2)(C), the court
- 30 shall consider expert testimony concerning whether a child is likely to
- 31 repeat an act that would be an offense described in subsection (a) if
- 32 committed by an adult.
- 33 SECTION 4. IC 11-8-8-7, AS AMENDED BY P.L.114-2012,
- 34 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 35 JULY 1, 2013]: Sec. 7. (a) Subject to section 19 of this chapter, the
- 36 following persons must register under this chapter:
- 37 (1) A sex or violent offender who resides in Indiana. A sex or
- 38 violent offender resides in Indiana if either of the following
- 39 applies:
- 40 (A) The sex or violent offender spends or intends to spend at
- 41 least seven (7) days (including part of a day) in Indiana during
- 42 a one hundred eighty (180) day period.

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- 1 (B) The sex or violent offender owns real property in Indiana  
 2 and returns to Indiana at any time.
- 3 (2) A sex or violent offender who works or carries on a vocation  
 4 or intends to work or carry on a vocation full time or part time for  
 5 a period:
- 6 (A) exceeding seven (7) consecutive days; or  
 7 (B) for a total period exceeding fourteen (14) days;  
 8 during any calendar year in Indiana regardless of whether the sex  
 9 or violent offender is financially compensated, volunteered, or is  
 10 acting for the purpose of government or educational benefit.
- 11 (3) A sex or violent offender who is enrolled or intends to be  
 12 enrolled on a full-time or part-time basis in any public or private  
 13 educational institution, including any secondary school, trade, or  
 14 professional institution, or postsecondary educational institution.
- 15 (b) Except as provided in subsection (e), a sex or violent offender  
 16 who resides in Indiana shall register with the local law enforcement  
 17 authority in the county where the sex or violent offender resides. If a  
 18 sex or violent offender resides in more than one (1) county, the sex or  
 19 violent offender shall register with the local law enforcement authority  
 20 in each county in which the sex or violent offender resides. If the sex  
 21 or violent offender is also required to register under subsection (a)(2)  
 22 or (a)(3), the sex or violent offender shall also register with the local  
 23 law enforcement authority in the county in which the offender is  
 24 required to register under subsection (c) or (d).
- 25 (c) A sex or violent offender described in subsection (a)(2) shall  
 26 register with the local law enforcement authority in the county where  
 27 the sex or violent offender is or intends to be employed or carry on a  
 28 vocation. If a sex or violent offender is or intends to be employed or  
 29 carry on a vocation in more than one (1) county, the sex or violent  
 30 offender shall register with the local law enforcement authority in each  
 31 county. If the sex or violent offender is also required to register under  
 32 subsection (a)(1) or (a)(3), the sex or violent offender shall also register  
 33 with the local law enforcement authority in the county in which the  
 34 offender is required to register under subsection (b) or (d).
- 35 (d) A sex or violent offender described in subsection (a)(3) shall  
 36 register with the local law enforcement authority in the county where  
 37 the sex or violent offender is enrolled or intends to be enrolled as a  
 38 student. If the sex or violent offender is also required to register under  
 39 subsection (a)(1) or (a)(2), the sex or violent offender shall also register  
 40 with the local law enforcement authority in the county in which the  
 41 offender is required to register under subsection (b) or (c).
- 42 (e) A sex or violent offender described in subsection (a)(1)(B) shall

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1 register with the local law enforcement authority in the county in which  
 2 the real property is located. If the sex or violent offender is also  
 3 required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex  
 4 or violent offender shall also register with the local law enforcement  
 5 authority in the county in which the offender is required to register  
 6 under subsection (b), (c), or (d).

7 (f) A sex or violent offender committed to the department shall  
 8 register with the department before the sex or violent offender is  
 9 **placed in a community transition program, placed in a work**  
 10 **release program, or released from incarceration, whichever occurs**  
 11 **first.** The department shall forward the sex or violent offender's  
 12 registration information to the local law enforcement authority of every  
 13 county in which the sex or violent offender is required to register. **If a**  
 14 **sex or violent offender released from the department under this**  
 15 **subsection:**

16 (1) **informs the department of the offender's intended location**  
 17 **of residence upon release; and**

18 (2) **does not move to this location upon release;**

19 **the offender shall, not later than seventy-two (72) hours after the**  
 20 **date on which the offender was released, report in person to the**  
 21 **local law enforcement authority having jurisdiction over the**  
 22 **offender's current address or location.**

23 (g) This subsection does not apply to a sex or violent offender who  
 24 is a sexually violent predator. A sex or violent offender not committed  
 25 to the department shall register not more than seven (7) days after the  
 26 sex or violent offender:

27 (1) is released from a penal facility (as defined in  
 28 IC 35-31.5-2-232);

29 (2) is released from a secure private facility (as defined in  
 30 IC 31-9-2-115);

31 (3) is released from a juvenile detention facility;

32 (4) is transferred to a community transition program;

33 (5) is placed on parole;

34 (6) is placed on probation;

35 (7) is placed on home detention; or

36 (8) arrives at the place where the sex or violent offender is  
 37 required to register under subsection (b), (c), or (d);

38 whichever occurs first. A sex or violent offender required to register in  
 39 more than one (1) county under subsection (b), (c), (d), or (e) shall  
 40 register in each appropriate county not more than seventy-two (72)  
 41 hours after the sex or violent offender's arrival in that county or  
 42 acquisition of real estate in that county.



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1 (h) This subsection applies to a sex or violent offender who is a  
 2 sexually violent predator. A sex or violent offender who is a sexually  
 3 violent predator shall register not more than seventy-two (72) hours  
 4 after the sex or violent offender:

5 (1) is released from a penal facility (as defined in  
 6 IC 35-31.5-2-232);

7 (2) is released from a secure private facility (as defined in  
 8 IC 31-9-2-115);

9 (3) is released from a juvenile detention facility;

10 (4) is transferred to a community transition program;

11 (5) is placed on parole;

12 (6) is placed on probation;

13 (7) is placed on home detention; or

14 (8) arrives at the place where the sexually violent predator is  
 15 required to register under subsection (b), (c), or (d);

16 whichever occurs first. A sex or violent offender who is a sexually  
 17 violent predator required to register in more than one (1) county under  
 18 subsection (b), (c), (d), or (e) shall register in each appropriate county  
 19 not more than seventy-two (72) hours after the offender's arrival in that  
 20 county or acquisition of real estate in that county.

21 (i) The local law enforcement authority with whom a sex or violent  
 22 offender registers under this section shall make and publish a  
 23 photograph of the sex or violent offender on the Indiana sex and violent  
 24 offender registry web site established under IC 36-2-13-5.5. The local  
 25 law enforcement authority shall make a photograph of the sex or  
 26 violent offender that complies with the requirements of IC 36-2-13-5.5  
 27 at least once per year. The sheriff of a county containing a consolidated  
 28 city shall provide the police chief of the consolidated city with all  
 29 photographic and computer equipment necessary to enable the police  
 30 chief of the consolidated city to transmit sex or violent offender  
 31 photographs (and other identifying information required by  
 32 IC 36-2-13-5.5) to the Indiana sex and violent offender registry web  
 33 site established under IC 36-2-13-5.5. In addition, the sheriff of a  
 34 county containing a consolidated city shall provide all funding for the  
 35 county's financial obligation for the establishment and maintenance of  
 36 the Indiana sex and violent offender registry web site established under  
 37 IC 36-2-13-5.5.

38 (j) When a sex or violent offender registers, the local law  
 39 enforcement authority shall:

40 (1) immediately update the Indiana sex and violent offender  
 41 registry web site established under IC 36-2-13-5.5;

42 (2) notify every law enforcement agency having jurisdiction in the

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1 county where the sex or violent offender resides; and  
 2 (3) update the National Crime Information Center National Sex  
 3 Offender Registry data base via the Indiana data and  
 4 communications system (IDACS).

5 When a sex or violent offender from a jurisdiction outside Indiana  
 6 registers a change of address, electronic mail address, instant  
 7 messaging username, electronic chat room username, social networking  
 8 web site username, employment, vocation, or enrollment in Indiana, the  
 9 local law enforcement authority shall provide the department with the  
 10 information provided by the sex or violent offender during registration.

11 SECTION 5. IC 11-8-8-8, AS AMENDED BY P.L.119-2008,  
 12 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2013]: Sec. 8. (a) The registration required under this chapter  
 14 must include the following information:

15 (1) The sex or violent offender's full name, alias, any name by  
 16 which the sex or violent offender was previously known, date of  
 17 birth, sex, race, height, weight, hair color, eye color, any scars,  
 18 marks, or tattoos, Social Security number, driver's license number  
 19 or state identification card number, vehicle description, ~~and~~  
 20 vehicle plate number, **and vehicle identification number** for any  
 21 vehicle the sex or violent offender owns or operates on a regular  
 22 basis, principal residence address, other address where the sex or  
 23 violent offender spends more than seven (7) nights in a fourteen  
 24 (14) day period, and mailing address, if different from the sex or  
 25 violent offender's principal residence address.

26 (2) A description of the offense for which the sex or violent  
 27 offender was convicted, the date of conviction, the county of the  
 28 conviction, the cause number of the conviction, and the sentence  
 29 imposed, if applicable.

30 (3) If the person is required to register under section 7(a)(2) or  
 31 7(a)(3) of this chapter, the name and address of each of the sex or  
 32 violent offender's employers in Indiana, the name and address of  
 33 each campus or location where the sex or violent offender is  
 34 enrolled in school in Indiana, and the address where the sex or  
 35 violent offender stays or intends to stay while in Indiana.

36 (4) A recent photograph of the sex or violent offender.

37 (5) If the sex or violent offender is a sexually violent predator,  
 38 that the sex or violent offender is a sexually violent predator.

39 (6) If the sex or violent offender is required to register for life,  
 40 that the sex or violent offender is required to register for life.

41 (7) Any electronic mail address, instant messaging username,  
 42 electronic chat room username, or social networking web site

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1 username that the sex or violent offender uses or intends to use.  
 2 (8) Any other information required by the department.  
 3 (b) If ~~the a~~ sex or violent offender **on probation or parole** registers  
 4 any information under subsection (a)(7), the offender shall sign a  
 5 consent form authorizing the:  
 6 (1) search of the sex or violent offender's personal computer or  
 7 device with Internet capability, at any time; and  
 8 (2) installation on the sex or violent offender's personal computer  
 9 or device with Internet capability, at the sex or violent offender's  
 10 expense, of hardware or software to monitor the sex or violent  
 11 offender's Internet usage.  
 12 (c) **If:**  
 13 (1) **the physical appearance of the sex or violent offender**  
 14 **materially changes from the photograph described in**  
 15 **subsection (a)(4); or**  
 16 (2) **any other information described in subsection (a) changes;**  
 17 **the sex or violent offender shall report in person to the local law**  
 18 **enforcement authority having jurisdiction over the sex or violent**  
 19 **offender's principal address not later than seventy-two (72) hours**  
 20 **after the change and permit a new photograph to be made (for a**  
 21 **change in appearance) or submit the new information to the local**  
 22 **law enforcement authority.**  
 23 SECTION 6. IC 11-8-8-11, AS AMENDED BY P.L.119-2008,  
 24 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2013]: Sec. 11. (a) If a sex or violent offender who is required  
 26 to register under this chapter changes:  
 27 (1) principal residence address; or  
 28 (2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place  
 29 where the sex or violent offender stays in Indiana;  
 30 the sex or violent offender shall report in person to the local law  
 31 enforcement authority having jurisdiction over the sex or violent  
 32 offender's current principal address or location and, if the offender  
 33 moves to a new county in Indiana, to the local law enforcement  
 34 authority having jurisdiction over the sex or violent offender's new  
 35 principal address or location not more than seventy-two (72) hours  
 36 after the address change.  
 37 (b) If a sex or violent offender moves to a new county in Indiana, the  
 38 local law enforcement authority where the sex or violent offender's  
 39 current principal residence address is located shall inform the local law  
 40 enforcement authority in the new county in Indiana of the sex or violent  
 41 offender's residence and forward all relevant registration information  
 42 concerning the sex or violent offender to the local law enforcement

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1 authority in the new county. The local law enforcement authority  
2 receiving notice under this subsection shall verify the address of the  
3 sex or violent offender under section 13 of this chapter not more than  
4 seven (7) days after receiving the notice.

5 (c) If a sex or violent offender who is required to register under  
6 section 7(a)(2) or 7(a)(3) of this chapter changes the sex or violent  
7 offender's principal place of employment, principal place of vocation,  
8 or campus or location where the sex or violent offender is enrolled in  
9 school, the sex or violent offender shall report in person:

10 (1) to the local law enforcement authority having jurisdiction over  
11 the sex or violent offender's current principal place of  
12 employment, principal place of vocation, or campus or location  
13 where the sex or violent offender is enrolled in school; and

14 (2) if the sex or violent offender changes the sex or violent  
15 offender's place of employment, vocation, or enrollment to a new  
16 county in Indiana, to the local law enforcement authority having  
17 jurisdiction over the sex or violent offender's new principal place  
18 of employment, principal place of vocation, or campus or location  
19 where the sex or violent offender is enrolled in school;

20 not more than seventy-two (72) hours after the change.

21 (d) If a sex or violent offender moves the sex or violent offender's  
22 place of employment, vocation, or enrollment to a new county in  
23 Indiana, the local law enforcement authority having jurisdiction over  
24 the sex or violent offender's current principal place of employment,  
25 principal place of vocation, or campus or location where the sex or  
26 violent offender is enrolled in school shall inform the local law  
27 enforcement authority in the new county of the sex or violent offender's  
28 new principal place of employment, vocation, or enrollment by  
29 forwarding relevant registration information to the local law  
30 enforcement authority in the new county.

31 (e) If a sex or violent offender moves the sex or violent offender's  
32 residence, place of employment, vocation, or enrollment to a new state,  
33 the local law enforcement authority shall inform the state police in the  
34 new state of the sex or violent offender's new place of residence,  
35 employment, vocation, or enrollment.

36 (f) If a sex or violent offender who is required to register under this  
37 chapter changes or obtains a new:

- 38 (1) electronic mail address;
- 39 (2) instant messaging username;
- 40 (3) electronic chat room username; or
- 41 (4) social networking web site username;

42 the sex or violent offender shall report in person to the local law

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1 enforcement authority having jurisdiction over the sex or violent  
 2 offender's current principal address or location and shall provide the  
 3 local law enforcement authority with the new address or username not  
 4 more than seventy-two (72) hours after the change or creation of the  
 5 address or username.

6 (g) A local law enforcement authority shall make registration  
 7 information, including information concerning the duty to register and  
 8 the penalty for failing to register, available to a sex or violent offender.

9 (h) A local law enforcement authority who is notified of a change  
 10 under subsection (a), (c), or (f) shall:

11 (1) immediately update the Indiana sex and violent offender  
 12 registry web site established under IC 36-2-13-5.5;

13 (2) update the National Crime Information Center National Sex  
 14 Offender Registry data base via the Indiana data and  
 15 communications system (IDACS); and

16 (3) notify the department.

17 (i) If a sex or violent offender who is registered with a local law  
 18 enforcement authority becomes incarcerated, the local law enforcement  
 19 authority shall transmit a copy of the information provided by the sex  
 20 or violent offender during registration to the department.

21 (j) If a sex or violent offender is no longer required to register due  
 22 to the expiration of the registration period, **or if a court grants a**  
 23 **petition under section 22 of this chapter that removes the**  
 24 **offender's duty to register under this chapter**, the local law  
 25 enforcement authority shall:

26 (1) **ensure the offender's information is no longer published to**  
 27 **the public portal of the sex or violent offender registry**  
 28 **Internet web site established under IC 36-2-13-5.5; and**

29 (2) transmit a copy of the information provided by the sex or  
 30 violent offender during registration to the department.

31 (k) **This subsection applies only to a sex or violent offender who**  
 32 **has:**

33 (1) **informed the local law enforcement authority of the**  
 34 **offender's intention to move the offender's residence to a new**  
 35 **location; and**

36 (2) **not moved the offender's residence to the new location.**

37 **Not later than seventy-two (72) hours after the date on which a sex**  
 38 **or violent offender to whom this subsection applies was scheduled**  
 39 **to move (according to information the offender provided to the**  
 40 **local law enforcement authority before the move), the sex or**  
 41 **violent offender shall report in person to the local law enforcement**  
 42 **authority having jurisdiction over the offender's current address**



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1 or location, even if the offender's address has not changed. An  
2 offender who fails to report as provided in this subsection may be  
3 prosecuted in the offender's original county of residence, in the  
4 county to which the offender intended to move, or in the offender's  
5 current county of residence.

6 SECTION 7. IC 11-8-8-13, AS AMENDED BY P.L.114-2012,  
7 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2013]: Sec. 13. (a) To verify a sex or violent offender's current  
9 residence, the local law enforcement authority having jurisdiction over  
10 the area of the sex or violent offender's current principal address or  
11 location shall do the following:

12 (1) Mail a form that is **Contact each offender in a manner**  
13 approved or prescribed by the department to each sex or violent  
14 offender in the county at the sex or violent offender's listed  
15 address at least one (1) time per year. beginning seven (7) days  
16 after the local law enforcement authority receives a notice under  
17 section 11 or 20 of this chapter or the date the sex or violent  
18 offender is:

- 19 (A) released from a penal facility (as defined in
- 20 IC 35-31.5-2-232); a secure private facility (as defined in
- 21 IC 31-9-2-115); or a juvenile detention facility;
- 22 (B) placed in a community transition program;
- 23 (C) placed in a community corrections program;
- 24 (D) placed on parole; or
- 25 (E) placed on probation;

26 whichever occurs first.

27 (2) Mail a form that is **Contact each offender who is designated**  
28 **a sexually violent predator in a manner** approved or prescribed  
29 by the department to each sex or violent offender who is  
30 designated a sexually violent predator under IC 35-38-1-7.5 at  
31 least once every ninety (90) days. beginning seven (7) days after  
32 the local law enforcement authority receives a notice under  
33 section 11 or 20 of this chapter or the date the sex or violent  
34 offender is:

- 35 (A) released from a penal facility (as defined in
- 36 IC 35-31.5-2-232); a secure private facility (as defined in
- 37 IC 31-9-2-115); or a juvenile detention facility;
- 38 (B) placed in a community transition program;
- 39 (C) placed in a community corrections program;
- 40 (D) placed on parole; or
- 41 (E) placed on probation;

42 whichever occurs first.

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1 (3) Personally visit each sex or violent offender in the county at  
2 the sex or violent offender's listed address at least one (1) time per  
3 year, beginning seven (7) days after the local law enforcement  
4 authority receives a notice under section 7 of this chapter or the  
5 date the sex or violent offender is:

- 6 (A) released from a penal facility (as defined in
- 7 IC 35-31.5-2-232), a secure private facility (as defined in
- 8 IC 31-9-2-115), or a juvenile detention facility;
- 9 (B) placed in a community transition program;
- 10 (C) placed in a community corrections program;
- 11 (D) placed on parole; or
- 12 (E) placed on probation;

13 whichever occurs first.

14 (4) Personally visit each sex or violent offender who is designated  
15 a sexually violent predator under IC 35-38-1-7.5 at least once  
16 every ninety (90) days, beginning seven (7) days after the local  
17 law enforcement authority receives a notice under section 7 of  
18 this chapter or the date the sex or violent offender is:

- 19 (A) released from a penal facility (as defined in
- 20 IC 35-31.5-2-232), a secure private facility (as defined in
- 21 IC 31-9-2-115), or a juvenile detention facility;
- 22 (B) placed in a community transition program;
- 23 (C) placed in a community corrections program;
- 24 (D) placed on parole; or
- 25 (E) placed on probation;

26 whichever occurs first.

27 (b) If a sex or violent offender ~~fails to return a signed form either by~~  
28 ~~mail or in person, not later than fourteen (14) days after mailing, or~~  
29 ~~appears not to reside at the listed address, the local law enforcement~~  
30 ~~authority shall immediately notify the department and the prosecuting~~  
31 ~~attorney.~~

32 SECTION 8. IC 11-8-8-14, AS AMENDED BY P.L.216-2007,  
33 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2013]: Sec. 14. (a) This subsection does not apply to a sex or  
35 violent offender who is a sexually violent predator. In addition to the  
36 other requirements of this chapter, a sex or violent offender who is  
37 required to register under this chapter shall, at least one (1) time **every**  
38 **three hundred sixty-five (365) days: per calendar year:**

- 39 (1) report in person to the local law enforcement authority;
- 40 (2) register; and
- 41 (3) be photographed by the local law enforcement authority;
- 42 in each location where the offender is required to register.

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1 (b) This subsection applies to a sex or violent offender who is a  
 2 sexually violent predator. In addition to the other requirements of this  
 3 chapter, a sex or violent offender who is a sexually violent predator  
 4 under IC 35-38-1-7.5 shall:

- 5 (1) report in person to the local law enforcement authority;  
 6 (2) register; and  
 7 (3) be photographed by the local law enforcement authority in  
 8 each location where the sex or violent offender is required to  
 9 register;

10 every ninety (90) days.

11 (c) Each time a sex or violent offender who claims to be working or  
 12 attending school registers in person, the sex or violent offender shall  
 13 provide documentation to the local law enforcement authority  
 14 providing evidence that the sex or violent offender is still working or  
 15 attending school at the registered location.

16 SECTION 9. IC 11-8-8-15, AS AMENDED BY P.L.216-2007,  
 17 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2013]: Sec. 15. (a) A sex or violent offender who is a resident  
 19 of Indiana shall obtain and keep in the sex or violent offender's  
 20 possession:

- 21 (1) a valid Indiana driver's license; or  
 22 (2) a valid Indiana identification card (as described in  
 23 IC 9-24-16);

24 **that contains the offender's current address and current physical**  
 25 **description.**

26 (b) A sex or violent offender required to register in Indiana who is  
 27 not a resident of Indiana shall obtain and keep in the sex or violent  
 28 offender's possession:

- 29 (1) a valid driver's license issued by the state in which the sex or  
 30 violent offender resides; or  
 31 (2) a valid state issued identification card issued by the state in  
 32 which the sex or violent offender resides;

33 **that contains the offender's current address and current physical**  
 34 **description.**

35 (c) A person who knowingly or intentionally violates this section  
 36 commits failure of a sex or violent offender to possess identification,  
 37 a Class A misdemeanor. However, the offense is a Class D felony if the  
 38 person:

- 39 (1) is a sexually violent predator; or  
 40 (2) has a prior unrelated conviction:  
 41 (A) under this section; or  
 42 (B) based on the person's failure to comply with any

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- 1 requirement imposed on an offender under this chapter.
- 2 (d) It is a defense to a prosecution under this section that:
- 3 (1) the person has been unable to obtain a valid driver's license or
- 4 state issued identification card because less than thirty (30) days
- 5 have passed since the person's release from incarceration; **or**
- 6 (2) the person possesses a driver's license or state issued
- 7 identification card that expired not more than thirty (30) days
- 8 before the date the person violated subsection (a) or (b); **or**
- 9 **(3) the person possesses a valid driver's license or state issued**
- 10 **identification card, but the card does not reflect the person's**
- 11 **current address or current physical description because fewer**
- 12 **than thirty (30) days have passed since the person changed the**
- 13 **person's current address or physical characteristics.**

14 SECTION 10. IC 11-8-8-19, AS AMENDED BY P.L.114-2012,  
 15 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2013]: Sec. 19. (a) Except as provided in subsections (b)  
 17 through (e), a sex or violent offender is required to register under this  
 18 chapter until the expiration of ten (10) years after the date the sex or  
 19 violent offender:

- 20 (1) is released from a penal facility (as defined in
- 21 IC 35-31.5-2-232) or a secure juvenile detention facility of a state
- 22 or another jurisdiction;
- 23 (2) is placed in a community transition program;
- 24 (3) is placed in a community corrections program;
- 25 (4) is placed on parole; or
- 26 (5) is placed on probation;

27 for the sex or violent offense requiring registration, whichever occurs  
 28 last. The registration period is tolled during any period that the sex or  
 29 violent offender is incarcerated. The registration period does not restart  
 30 if the offender is convicted of a subsequent offense. However, if the  
 31 subsequent offense is a sex or violent offense, a new registration period  
 32 may be imposed in accordance with this chapter. The department shall  
 33 ensure that an offender who is no longer required to register as a sex or  
 34 violent offender is notified that the obligation to register has expired,  
 35 **and shall ensure that the offender's information is no longer**  
 36 **published to the public portal of the sex or violent offender registry**  
 37 **Internet web site established under IC 36-2-13-5.5.**

38 (b) A sex or violent offender who is a sexually violent predator is  
 39 required to register for life.

40 (c) A sex or violent offender who is convicted of at least one (1)  
 41 offense under section 5(a) of this chapter that the sex or violent  
 42 offender committed:

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1 (1) when the person was at least eighteen (18) years of age; and  
 2 (2) against a victim who was less than twelve (12) years of age at  
 3 the time of the crime;  
 4 is required to register for life.

5 (d) A sex or violent offender who is convicted of at least one (1)  
 6 offense under section 5(a) of this chapter in which the sex offender:

7 (1) proximately caused serious bodily injury or death to the  
 8 victim;

9 (2) used force or the threat of force against the victim or a  
 10 member of the victim's family, unless the offense is sexual battery  
 11 as a Class D felony; or

12 (3) rendered the victim unconscious or otherwise incapable of  
 13 giving voluntary consent;

14 is required to register for life.

15 (e) A sex or violent offender who is convicted of at least two (2)  
 16 unrelated offenses under section 5(a) of this chapter is required to  
 17 register for life.

18 (f) A person who is required to register as a sex or violent offender  
 19 in any jurisdiction shall register for the period required by the other  
 20 jurisdiction or the period described in this section, whichever is longer.

21 SECTION 11. IC 11-8-8-22, AS AMENDED BY P.L.103-2010,  
 22 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2013]: Sec. 22. (a) As used in this section, "offender" means  
 24 a sex offender (as defined in section 4.5 of this chapter) and a sex or  
 25 violent offender (as defined in section 5 of this chapter).

26 (b) Subsection (g) applies to an offender required to register under  
 27 this chapter if, due to a change in federal or state law after June 30,  
 28 2007, an individual who engaged in the same conduct as the offender:

29 (1) would not be required to register under this chapter; or

30 (2) would be required to register under this chapter but under less  
 31 restrictive conditions than the offender is required to meet.

32 (c) A person to whom this section applies may petition a court to:

33 (1) remove the person's designation as an offender **and order the**  
 34 **department to remove all information regarding the person**  
 35 **from the public portal of the sex or violent offender registry**  
 36 **Internet web site established under IC 36-2-13-5.5;** or

37 (2) require the person to register under less restrictive conditions.

38 (d) A petition under this section shall be filed in the circuit or  
 39 superior court of the county in which the offender resides. If the  
 40 offender resides in more than one (1) county, the petition shall be filed  
 41 in the circuit or superior court of the county in which the offender  
 42 resides the greatest time. If the offender does not reside in Indiana, the

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1 petition shall be filed in the circuit or superior court of the county  
 2 where the offender is employed the greatest time. If the offender does  
 3 not reside or work in Indiana, but is a student in Indiana, the petition  
 4 shall be filed in the circuit or superior court of the county where the  
 5 offender is a student. If the offender is not a student in Indiana and does  
 6 not reside or work in Indiana, the petition shall be filed in the county  
 7 where the offender was most recently convicted of a crime listed in  
 8 section 5 of this chapter.

9 (e) After receiving a petition under this section, the court may:

10 (1) summarily dismiss the petition; or

11 (2) give notice to:

12 (A) the department;

13 (B) the attorney general;

14 (C) the prosecuting attorney of:

15 (i) the county where the petition was filed;

16 (ii) the county where offender was most recently convicted  
 17 of an offense listed in section 5 of this chapter; and

18 (iii) the county where the offender resides; and

19 (D) the sheriff of the county where the offender resides;

20 and set the matter for hearing. The date set for a hearing must not be  
 21 less than sixty (60) days after the court gives notice under this  
 22 subsection.

23 (f) If a court sets a matter for a hearing under this section, the  
 24 prosecuting attorney of the county in which the action is pending shall  
 25 appear and respond, unless the prosecuting attorney requests the  
 26 attorney general to appear and respond and the attorney general agrees  
 27 to represent the interests of the state in the matter. If the attorney  
 28 general agrees to appear, the attorney general shall give notice to:

29 ~~(A)~~ (1) the prosecuting attorney; and

30 ~~(B)~~ (2) the court.

31 (g) A court may grant a petition under this section if, following a  
 32 hearing, the court makes the following findings:

33 (1) The law requiring the petitioner to register as an offender has  
 34 changed since the date on which the petitioner was initially  
 35 required to register.

36 (2) If the petitioner who was required to register as an offender  
 37 before the change in law engaged in the same conduct after the  
 38 change in law occurred, the petitioner would:

39 (A) not be required to register as an offender; or

40 (B) be required to register as an offender, but under less  
 41 restrictive conditions.

42 (3) If the petitioner seeks relief under this section because a

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1 change in law makes a previously unavailable defense available  
 2 to the petitioner, that the petitioner has proved the defense.  
 3 The court has the discretion to deny a petition under this section, even  
 4 if the court makes the findings under this subsection.

5 (h) The petitioner has the burden of proof in a hearing under this  
 6 section.

7 (i) If the court grants a petition under this section, the court shall  
 8 notify:

- 9 (1) the victim of the offense, if applicable;  
 10 (2) the department of correction; and  
 11 (3) the local law enforcement authority of every county in which  
 12 the petitioner is currently required to register.

13 (j) An offender may base a petition filed under this section on a  
 14 claim that the application or registration requirements constitute ex  
 15 post facto punishment.

16 (k) A petition filed under this section must:

- 17 (1) be submitted under the penalties of perjury;  
 18 (2) list each of the offender's criminal convictions and state for  
 19 each conviction:  
 20 (A) the date of the judgment of conviction;  
 21 (B) the court that entered the judgment of conviction;  
 22 (C) the crime that the offender pled guilty to or was convicted  
 23 of; and  
 24 (D) whether the offender was convicted of the crime in a trial  
 25 or pled guilty to the criminal charges; and  
 26 (3) list each jurisdiction in which the offender is required to  
 27 register as a sex offender or a violent offender.

28 (l) The attorney general may initiate an appeal from any order  
 29 granting an offender relief under this section.

30 SECTION 12. IC 35-38-1-7.5, AS AMENDED BY P.L.216-2007,  
 31 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2013]: Sec. 7.5. (a) As used in this section, "sexually violent  
 33 predator" means a person who suffers from a mental abnormality or  
 34 personality disorder that makes the individual likely to repeatedly  
 35 commit a sex offense (as defined in IC 11-8-8-5.2). The term includes  
 36 a person convicted in another jurisdiction who is identified as a  
 37 sexually violent predator under IC 11-8-8-20. The term does not  
 38 include a person no longer considered a sexually violent predator under  
 39 subsection (g).

40 (b) A person who:

- 41 (1) being at least eighteen (18) years of age, commits an offense  
 42 described in:

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- 1 (A) IC 35-42-4-1;
- 2 (B) IC 35-42-4-2;
- 3 (C) IC 35-42-4-3 as a Class A or Class B felony;
- 4 (D) IC 35-42-4-5(a)(1);
- 5 (E) IC 35-42-4-5(a)(2);
- 6 (F) IC 35-42-4-5(a)(3);
- 7 (G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
- 8 (H) IC 35-42-4-5(b)(2);
- 9 (I) IC 35-42-4-5(b)(3) as a Class A or Class B felony;
- 10 (J) an attempt or conspiracy to commit a crime listed in
- 11 clauses (A) through (I); or
- 12 (K) a crime under the laws of another jurisdiction, including
- 13 a military court, that is substantially equivalent to any of the
- 14 offenses listed in clauses (A) through (J);
- 15 (2) commits a sex offense (as defined in IC 11-8-8-5.2) while
- 16 having a previous unrelated conviction for a sex offense for which
- 17 the person is required to register as a sex or violent offender under
- 18 IC 11-8-8;
- 19 (3) commits a sex offense (as defined in IC 11-8-8-5.2) while
- 20 having had a previous unrelated adjudication as a delinquent child
- 21 for an act that would be a sex offense if committed by an adult, if,
- 22 after considering expert testimony, a court finds by clear and
- 23 convincing evidence that the person is likely to commit an
- 24 additional sex offense; or
- 25 (4) commits a sex offense (as defined in IC 11-8-8-5.2) while
- 26 having had a previous unrelated adjudication as a delinquent child
- 27 for an act that would be a sex offense if committed by an adult, if
- 28 the person was required to register as a sex or violent offender
- 29 under IC 11-8-8-5(b)(2);
- 30 is a sexually violent predator. Except as provided in subsection (g) or
- 31 (h), a person is a sexually violent predator by operation of law if an
- 32 offense committed by the person satisfies the conditions set forth in
- 33 subdivision (1) or (2) and the person was released from incarceration,
- 34 secure detention, or probation, **or parole** for the offense after June 30,
- 35 1994.
- 36 (c) This section applies whenever a court sentences a person or a
- 37 juvenile court issues a dispositional decree for a sex offense (as defined
- 38 in IC 11-8-8-5.2) for which the person is required to register with the
- 39 local law enforcement authority under IC 11-8-8.
- 40 (d) At the sentencing hearing, the court shall indicate on the record
- 41 whether the person has been convicted of an offense that makes the
- 42 person a sexually violent predator under subsection (b).

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1 (e) If a person is not a sexually violent predator under subsection  
 2 (b), the prosecuting attorney may request the court to conduct a hearing  
 3 to determine whether the person (including a child adjudicated to be a  
 4 delinquent child) is a sexually violent predator under subsection (a). If  
 5 the court grants the motion, the court shall appoint two (2)  
 6 psychologists or psychiatrists who have expertise in criminal  
 7 behavioral disorders to evaluate the person and testify at the hearing.  
 8 After conducting the hearing and considering the testimony of the two  
 9 (2) psychologists or psychiatrists, the court shall determine whether the  
 10 person is a sexually violent predator under subsection (a). A hearing  
 11 conducted under this subsection may be combined with the person's  
 12 sentencing hearing.

13 (f) If a person is a sexually violent predator:

14 (1) the person is required to register with the local law  
 15 enforcement authority as provided in IC 11-8-8; and

16 (2) the court shall send notice to the department of correction.

17 (g) This subsection does not apply to a person who has two (2) or  
 18 more unrelated convictions for an offense described in IC 11-8-8-4.5  
 19 for which the person is required to register under IC 11-8-8. A person  
 20 who is a sexually violent predator may petition the court to consider  
 21 whether the person should no longer be considered a sexually violent  
 22 predator. The person may file a petition under this subsection not  
 23 earlier than ten (10) years after:

24 (1) the sentencing court or juvenile court makes its determination  
 25 under subsection (e); or

26 (2) the person is released from incarceration or secure detention.

27 A person may file a petition under this subsection not more than one  
 28 (1) time per year. A court may dismiss a petition filed under this  
 29 subsection or conduct a hearing to determine if the person should no  
 30 longer be considered a sexually violent predator. If the court conducts  
 31 a hearing, the court shall appoint two (2) psychologists or psychiatrists  
 32 who have expertise in criminal behavioral disorders to evaluate the  
 33 person and testify at the hearing. After conducting the hearing and  
 34 considering the testimony of the two (2) psychologists or psychiatrists,  
 35 the court shall determine whether the person should no longer be  
 36 considered a sexually violent predator under subsection (a). If a court  
 37 finds that the person should no longer be considered a sexually violent  
 38 predator, the court shall send notice to the department of correction that  
 39 the person is no longer considered a sexually violent predator **or an**  
 40 **offender against children**. Notwithstanding any other law, a condition  
 41 imposed on a person due to the person's status as a sexually violent  
 42 predator, including lifetime parole or GPS monitoring, does not apply

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1 to a person no longer considered a sexually violent predator.

2 (h) A person is not a sexually violent predator by operation of law  
3 under subsection (b)(1) if all of the following conditions are met:

4 (1) The victim was not less than twelve (12) years of age at the  
5 time the offense was committed.

6 (2) The person is not more than four (4) years older than the  
7 victim.

8 (3) The relationship between the person and the victim was a  
9 dating relationship or an ongoing personal relationship. The term  
10 "ongoing personal relationship" does not include a family  
11 relationship.

12 (4) The offense committed by the person was not any of the  
13 following:

14 (A) Rape (IC 35-42-4-1).

15 (B) Criminal deviate conduct (IC 35-42-4-2).

16 (C) An offense committed by using or threatening the use of  
17 deadly force or while armed with a deadly weapon.

18 (D) An offense that results in serious bodily injury.

19 (E) An offense that is facilitated by furnishing the victim,  
20 without the victim's knowledge, with a drug (as defined in  
21 IC 16-42-19-2(1)) or a controlled substance (as defined in  
22 IC 35-48-1-9) or knowing that the victim was furnished with  
23 the drug or controlled substance without the victim's  
24 knowledge.

25 (5) The person has not committed another sex offense (as defined  
26 in IC 11-8-8-5.2) (including a delinquent act that would be a sex  
27 offense if committed by an adult) against any other person.

28 (6) The person did not have a position of authority or substantial  
29 influence over the victim.

30 (7) The court finds that the person should not be considered a  
31 sexually violent predator.

32 SECTION 13. IC 35-42-4-11, AS AMENDED BY P.L.216-2007,  
33 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2013]: Sec. 11. (a) As used in this section, and except as  
35 provided in subsection (d), "offender against children" means a person  
36 required to register as a sex or violent offender under IC 11-8-8 who  
37 has been:

38 (1) found to be a sexually violent predator under IC 35-38-1-7.5;  
39 or

40 (2) convicted of one (1) or more of the following offenses:

41 (A) Child molesting (IC 35-42-4-3).

42 (B) Child exploitation (IC 35-42-4-4(b)).

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- 1 (C) Child solicitation (IC 35-42-4-6).  
 2 (D) Child seduction (IC 35-42-4-7).  
 3 (E) Kidnapping (IC 35-42-3-2), if:  
 4 (i) the victim is less than eighteen (18) years of age; and ~~the~~  
 5 ~~person is not the child's parent or guardian~~  
 6 (ii) **the court finds by clear and convincing evidence**  
 7 **during the sentencing hearing that the offense was**  
 8 **committed for a sexual purpose.**  
 9 (F) Attempt to commit or conspiracy to commit an offense  
 10 listed in clauses (A) through (E).  
 11 (G) An offense in another jurisdiction that is substantially  
 12 similar to an offense described in clauses (A) through (F).  
 13 A person is an offender against children by operation of law if the  
 14 person meets the conditions described in subdivision (1) or (2) at any  
 15 time.  
 16 (b) As used in this section, "reside" means to spend more than three  
 17 (3) nights in:  
 18 (1) a residence; or  
 19 (2) if the person does not reside in a residence, a particular  
 20 location;  
 21 in any thirty (30) day period.  
 22 (c) An offender against children who knowingly or intentionally:  
 23 (1) resides within one thousand (1,000) feet of:  
 24 (A) school property, not including property of an institution  
 25 providing post-secondary education;  
 26 (B) a youth program center; or  
 27 (C) a public park; or  
 28 (2) establishes a residence within one (1) mile of the residence of  
 29 the victim of the offender's sex offense;  
 30 commits a sex offender residency offense, a Class D felony.  
 31 (d) This subsection does not apply to an offender against children  
 32 who has two (2) or more unrelated convictions for an offense described  
 33 in subsection (a). A person who is an offender against children may  
 34 petition the court to consider whether the person should no longer be  
 35 considered an offender against children. The person may file a petition  
 36 under this subsection not earlier than ten (10) years after the person is  
 37 released from incarceration (**or, if the person is not incarcerated, not**  
 38 **earlier than ten (10) years after the person is released from**  
 39 **probation.) or parole, whichever occurs last.** A person may file a  
 40 petition under this subsection not more than one (1) time per year. A  
 41 court may dismiss a petition filed under this subsection or conduct a  
 42 hearing to determine if the person should no longer be considered an

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1 offender against children. If the court conducts a hearing, the court  
 2 shall appoint two (2) psychologists or psychiatrists who have expertise  
 3 in criminal behavioral disorders to evaluate the person and testify at the  
 4 hearing. After conducting the hearing and considering the testimony of  
 5 the two (2) psychologists or psychiatrists, the court shall determine  
 6 whether the person should no longer be considered an offender against  
 7 children. If a court finds that the person should no longer be considered  
 8 an offender against children, the court shall send notice to the  
 9 department of correction that the person is no longer considered an  
 10 offender against children.

11 SECTION 14. IC 35-42-4-12, AS ADDED BY P.L.119-2008,  
 12 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2013]: Sec. 12. (a) This section does not apply to a person to  
 14 whom all of the following apply:

15 (1) The person is not more than:

16 (A) four (4) years older than the victim if the offense was  
 17 committed after June 30, 2007; or

18 (B) five (5) years older than the victim if the offense was  
 19 committed before July 1, 2007.

20 (2) The relationship between the person and the victim was a  
 21 dating relationship or an ongoing personal relationship. The term  
 22 "ongoing personal relationship" does not include a family  
 23 relationship.

24 (3) The crime:

25 (A) was not committed by a person who is at least twenty-one  
 26 (21) years of age;

27 (B) was not committed by using or threatening the use of  
 28 deadly force;

29 (C) was not committed while armed with a deadly weapon;

30 (D) did not result in serious bodily injury;

31 (E) was not facilitated by furnishing the victim, without the  
 32 victim's knowledge, with a drug (as defined in  
 33 IC 16-42-19-2(1)) or a controlled substance (as defined in  
 34 IC 35-48-1-9) or knowing that the victim was furnished with  
 35 the drug or controlled substance without the victim's  
 36 knowledge; and

37 (F) was not committed by a person having a position of  
 38 authority or substantial influence over the victim.

39 (b) This section applies only to a person required to register as a sex  
 40 or violent offender under IC 11-8-8 who has been:

41 (1) found to be a sexually violent predator under IC 35-38-1-7.5;

42 or

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- 1 (2) convicted of one (1) or more of the following offenses:
- 2 (A) Child molesting (IC 35-42-4-3).
- 3 (B) Child exploitation (IC 35-42-4-4(b)).
- 4 (C) Possession of child pornography (IC 35-42-4-4(c)).
- 5 (D) Vicarious sexual gratification (IC 35-42-4-5(a) or
- 6 IC 35-42-4-5(b)).
- 7 (E) Sexual conduct in the presence of a minor
- 8 (IC 35-42-4-5(c)).
- 9 (F) Child solicitation (IC 35-42-4-6).
- 10 (G) Child seduction (IC 35-42-4-7).
- 11 (H) Kidnapping (IC 35-42-3-2), if:
- 12 (i) the victim is less than eighteen (18) years of age; and the
- 13 person is not the child's parent or guardian
- 14 (ii) the court finds by clear and convincing evidence
- 15 during the sentencing hearing that the offense was
- 16 committed for a sexual purpose.
- 17 (I) Attempt to commit or conspiracy to commit an offense
- 18 listed in clauses (A) through (H).
- 19 (J) An offense in another jurisdiction that is substantially
- 20 similar to an offense described in clauses (A) through (H).
- 21 (c) As used in this section, "instant messaging or chat room
- 22 program" means a software program that requires a person to register
- 23 or create an account, a username, or a password to become a member
- 24 or registered user of the program and allows two (2) or more members
- 25 or authorized users to communicate over the Internet in real time using
- 26 typed text. The term does not include an electronic mail program or
- 27 message board program.
- 28 (d) As used in this section, "social networking web site" means an
- 29 Internet web site that:
- 30 (1) facilitates the social introduction between two (2) or more
- 31 persons;
- 32 (2) requires a person to register or create an account, a username,
- 33 or a password to become a member of the web site and to
- 34 communicate with other members;
- 35 (3) allows a member to create a web page or a personal profile;
- 36 and
- 37 (4) provides a member with the opportunity to communicate with
- 38 another person.
- 39 The term does not include an electronic mail program or message
- 40 board program.
- 41 (e) A person described in subsection (b) who knowingly or
- 42 intentionally uses:

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1 (1) a social networking web site; or  
 2 (2) an instant messaging or chat room program;  
 3 that the offender knows allows a person who is less than eighteen (18)  
 4 years of age to access or use the web site or program commits a sex  
 5 offender Internet offense, a Class A misdemeanor. However, the  
 6 offense is a Class D felony if the person has a prior unrelated  
 7 conviction under this section.

8 (f) It is a defense to a prosecution under this section that the person:  
 9 (1) did not know that the web site or program allowed a person  
 10 who is less than eighteen (18) years of age to access or use the  
 11 web site or program; and  
 12 (2) upon discovering that the web site or program allows a person  
 13 who is less than eighteen (18) years of age to access or use the  
 14 web site or program, immediately ceased further use or access of  
 15 the web site or program.

16 SECTION 15. IC 35-50-6-3.3, AS AMENDED BY P.L.147-2012,  
 17 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2013]: Sec. 3.3. (a) In addition to any credit time a person  
 19 earns under subsection (b) or section 3 of this chapter, a person earns  
 20 credit time if the person:

21 (1) is in credit Class I;  
 22 (2) has demonstrated a pattern consistent with rehabilitation; and  
 23 (3) successfully completes requirements to obtain one (1) of the  
 24 following:

- 25 (A) A general educational development (GED) diploma under
- 26 IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person
- 27 has not previously obtained a high school diploma.
- 28 (B) Except as provided in subsection (n), a high school
- 29 diploma, if the person has not previously obtained a general
- 30 educational development (GED) diploma.
- 31 (C) An associate's degree from an approved postsecondary
- 32 educational institution (as defined under IC 21-7-13-6(a)).
- 33 (D) A bachelor's degree from an approved postsecondary
- 34 educational institution (as defined under IC 21-7-13-6(a)).

35 (b) In addition to any credit time that a person earns under  
 36 subsection (a) or section 3 of this chapter, a person may earn credit  
 37 time if, while confined by the department of correction, the person:

- 38 (1) is in credit Class I;
- 39 (2) demonstrates a pattern consistent with rehabilitation; and
- 40 (3) successfully completes requirements to obtain at least one (1)
- 41 of the following:
- 42 (A) A certificate of completion of a career and technical

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1 education program approved by the department of correction.  
 2 (B) A certificate of completion of a substance abuse program  
 3 approved by the department of correction.  
 4 (C) A certificate of completion of a literacy and basic life  
 5 skills program approved by the department of correction.  
 6 (D) A certificate of completion of a reformatory program  
 7 approved by the department of correction.  
 8 (c) The department of correction shall establish admissions criteria  
 9 and other requirements for programs available for earning credit time  
 10 under subsection (b). A person may not earn credit time under both  
 11 subsections (a) and (b) for the same program of study.  
 12 (d) The amount of credit time a person may earn under this section  
 13 is the following:  
 14 (1) Six (6) months for completion of a state of Indiana general  
 15 educational development (GED) diploma under IC 20-20-6  
 16 (before its repeal) or IC 22-4.1-18.  
 17 (2) One (1) year for graduation from high school.  
 18 (3) One (1) year for completion of an associate's degree.  
 19 (4) Two (2) years for completion of a bachelor's degree.  
 20 (5) Not more than a total of six (6) months of credit, as  
 21 determined by the department of correction, for the completion of  
 22 one (1) or more career and technical education programs  
 23 approved by the department of correction.  
 24 (6) Not more than a total of six (6) months of credit, as  
 25 determined by the department of correction, for the completion of  
 26 one (1) or more substance abuse programs approved by the  
 27 department of correction.  
 28 (7) Not more than a total of six (6) months credit, as determined  
 29 by the department of correction, for the completion of one (1) or  
 30 more literacy and basic life skills programs approved by the  
 31 department of correction.  
 32 (8) Not more than a total of six (6) months credit time, as  
 33 determined by the department of correction, for completion of one  
 34 (1) or more reformatory programs approved by the department of  
 35 correction. However, a person who is serving a sentence for an  
 36 offense listed under IC 11-8-8-4.5 may not earn credit time under  
 37 this subdivision.  
 38 However, a person who does not have a substance abuse problem that  
 39 qualifies the person to earn credit in a substance abuse program may  
 40 earn not more than a total of twelve (12) months of credit, as  
 41 determined by the department of correction, for the completion of one  
 42 (1) or more career and technical education programs approved by the

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1 department of correction. If a person earns more than six (6) months of  
 2 credit for the completion of one (1) or more career and technical  
 3 education programs, the person is ineligible to earn credit for the  
 4 completion of one (1) or more substance abuse programs.

5 (e) Credit time earned by a person under this section is subtracted  
 6 from the release date that would otherwise apply to the person after  
 7 subtracting all other credit time earned by the person.

8 (f) A person does not earn credit time under subsection (a) unless  
 9 the person completes at least a portion of the degree requirements after  
 10 June 30, 1993.

11 (g) A person does not earn credit time under subsection (b) unless  
 12 the person completes at least a portion of the program requirements  
 13 after June 30, 1999.

14 (h) Credit time earned by a person under subsection (a) for a  
 15 diploma or degree completed before July 1, 1999, shall be subtracted  
 16 from:

17 (1) the release date that would otherwise apply to the person after  
 18 subtracting all other credit time earned by the person, if the  
 19 person has not been convicted of an offense described in  
 20 subdivision (2); or

21 (2) the period of imprisonment imposed on the person by the  
 22 sentencing court, if the person has been convicted of one (1) of  
 23 the following crimes:

24 (A) Rape (IC 35-42-4-1).

25 (B) Criminal deviate conduct (IC 35-42-4-2).

26 (C) Child molesting (IC 35-42-4-3).

27 (D) Child exploitation (IC 35-42-4-4(b)).

28 (E) Vicarious sexual gratification (IC 35-42-4-5).

29 (F) Child solicitation (IC 35-42-4-6).

30 (G) Child seduction (IC 35-42-4-7).

31 (H) Sexual misconduct with a minor as a Class A felony, Class  
 32 B felony, or Class C felony (IC 35-42-4-9).

33 (I) Incest (IC 35-46-1-3).

34 (J) Sexual battery (IC 35-42-4-8).

35 (K) Kidnapping (IC 35-42-3-2), if:

36 (i) the victim is less than eighteen (18) years of age; **and**

37 (ii) **the court finds by clear and convincing evidence**  
 38 **during the sentencing hearing that the offense was**  
 39 **committed for a sexual purpose.**

40 (L) Criminal confinement (IC 35-42-3-3), if:

41 (i) the victim is less than eighteen (18) years of age; **and**

42 (ii) **the court finds by clear and convincing evidence**

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1                   **during the sentencing hearing that the offense was**  
 2                   **committed for a sexual purpose.**  
 3                   (M) An attempt or a conspiracy to commit a crime listed in  
 4                   clauses (A) through (L).  
 5                   (i) The maximum amount of credit time a person may earn under  
 6                   this section is the lesser of:  
 7                   (1) four (4) years; or  
 8                   (2) one-third (1/3) of the person's total applicable credit time.  
 9                   (j) Credit time earned under this section by an offender serving a  
 10                  sentence for a felony against a person under IC 35-42 or for a crime  
 11                  listed in IC 11-8-8-5 shall be reduced to the extent that application of  
 12                  the credit time would otherwise result in:  
 13                  (1) postconviction release (as defined in IC 35-40-4-6); or  
 14                  (2) assignment of the person to a community transition program;  
 15                  in less than forty-five (45) days after the person earns the credit time.  
 16                  (k) A person may earn credit time for multiple degrees at the same  
 17                  education level under subsection (d) only in accordance with guidelines  
 18                  approved by the department of correction. The department of  
 19                  correction may approve guidelines for proper sequence of education  
 20                  degrees under subsection (d).  
 21                  (l) A person may not earn credit time:  
 22                  (1) for a general educational development (GED) diploma if the  
 23                  person has previously earned a high school diploma; or  
 24                  (2) for a high school diploma if the person has previously earned  
 25                  a general educational development (GED) diploma.  
 26                  (m) A person may not earn credit time under this section if the  
 27                  person:  
 28                  (1) commits an offense listed in IC 11-8-8-4.5 while the person is  
 29                  required to register as a sex or violent offender under IC 11-8-8-7;  
 30                  and  
 31                  (2) is committed to the department of correction after being  
 32                  convicted of the offense listed in IC 11-8-8-4.5.  
 33                  (n) For a person to earn credit time under subsection (a)(3)(B) for  
 34                  successfully completing the requirements for a high school diploma  
 35                  through correspondence courses, each correspondence course must be  
 36                  approved by the department before the person begins the  
 37                  correspondence course. The department may approve a correspondence  
 38                  course only if the entity administering the course is recognized and  
 39                  accredited by the department of education in the state where the entity  
 40                  is located.  
 41                  SECTION 16. IC 36-2-13-5.5, AS AMENDED BY P.L.216-2007,  
 42                  SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2013]: Sec. 5.5. (a) The sheriffs shall jointly establish and  
 2 maintain an Indiana sex and violent offender registry web site, known  
 3 as the Indiana sex and violent offender registry, to inform the general  
 4 public about the identity, location, and appearance of every sex or  
 5 violent offender ~~residing within Indiana: who is required to register~~  
 6 **under IC 11-8-8-7.** The web site must provide information regarding  
 7 each sex or violent offender, organized by county of residence. The  
 8 web site shall be updated at least daily.

9 (b) The **public portal of the** Indiana sex and violent offender  
 10 registry **Internet** web site must include the following information **for**  
 11 **every sex or violent offender who is required to register under**  
 12 **IC 11-8-8-7:**

13 (1) A recent photograph of every sex or violent offender who has  
 14 registered with a sheriff after the effective date of this chapter.

15 (2) The home address of every sex or violent offender.

16 (3) The information required under IC 11-8-8-8.

17 (1) The sex or violent offender's full name, alias, any name by  
 18 which the sex or violent offender was previously known, sex,  
 19 race, height, weight, hair color, eye color, any scars, marks, or  
 20 tattoos, principal residence address, and any other address  
 21 where the sex or violent offender spends more than seven (7)  
 22 nights in a fourteen (14) day period.

23 (2) A description of the offense for which the sex or violent  
 24 offender was convicted, the date of conviction, the county of  
 25 the conviction, the state of the conviction, the cause number  
 26 of the conviction, and the sentence imposed.

27 (3) If the person is required to register under  
 28 IC 11-8-8-7(a)(2) or IC 11-8-8-7(a)(3), the address of each of  
 29 the sex or violent offender's employers in Indiana, the address  
 30 of each campus or location where the sex or violent offender  
 31 is enrolled in school in Indiana, and the address where the sex  
 32 or violent offender stays or intends to stay while in Indiana.

33 (4) A recent photograph of the sex or violent offender.

34 (5) If the sex or violent offender is a sexually violent predator,  
 35 that the sex or violent offender is a sexually violent predator.

36 (c) The local law enforcement authority (as defined in  
 37 IC 11-8-8-2) shall:

38 Every time a sex or violent offender registers, but at least once per  
 39 year, the sheriff shall:

40 (1) photograph the sex or violent offender **in accordance with**  
 41 **IC 11-8-8-14;** and

42 (2) determine whether the sex or violent offender's fingerprints

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1 are on file:

2 (A) in Indiana; or

3 (B) with the Federal Bureau of Investigation.

4 If it appears that the sex or violent offender's fingerprints are not on file  
5 as described in subdivision (2), the **sheriff local law enforcement**  
6 **authority** shall fingerprint the sex or violent offender and transmit a  
7 copy of the fingerprints to the state police department. The **sheriff local**  
8 **law enforcement authority** shall place the photograph described in  
9 subdivision (1) on the **public portal of the** Indiana sex and violent  
10 offender registry **Internet** web site.

11 (d) The photograph of a sex or violent offender described in  
12 subsection (c) must meet the following requirements:

13 (1) The photograph must be full face, front view, with a plain  
14 white or off-white background.

15 (2) The image of the offender's face, measured from the bottom  
16 of the chin to the top of the head, must fill at least seventy-five  
17 percent (75%) of the photograph.

18 (3) The photograph must be in color.

19 (4) The photograph must show the offender dressed in normal  
20 street attire, without a hat or headgear that obscures the hair or  
21 hairline.

22 (5) If the offender normally and consistently wears prescription  
23 glasses, a hearing device, wig, or a similar article, the photograph  
24 must show the offender wearing those items. A photograph may  
25 not include dark glasses or nonprescription glasses with tinted  
26 lenses unless the offender can provide a medical certificate  
27 demonstrating that tinted lenses are required for medical reasons.

28 (6) The photograph must have sufficient resolution to permit the  
29 offender to be easily identified by a person accessing the Indiana  
30 sex and violent offender registry web site.

31 (e) The Indiana sex and violent offender registry web site may be  
32 funded from:

33 (1) the jail commissary fund (IC 36-8-10-21);

34 (2) a grant from the criminal justice institute; and

35 (3) any other source, subject to the approval of the county fiscal  
36 body.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1053, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 10, line 13, after "offender" insert "**materially**".

and when so amended that said bill do pass.

(Reference is to HB 1053 as introduced.)

MCMILLIN, Chair

Committee Vote: yeas 11, nays 2.

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