

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 347 be amended to read as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 11-10-11.5-11, AS AMENDED BY P.L.3-2008,
4 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 11. **(a)** While assigned to a community
6 transition program, a person must comply with:
7 (1) the rules concerning the conduct of persons in the community
8 transition program, including rules related to payments described
9 in section 12 of this chapter, that are adopted by the community
10 corrections advisory board establishing the program or, in
11 counties that are not served by a community corrections program,
12 that are jointly adopted by the courts in the county with felony
13 jurisdiction; and
14 (2) any conditions established by the sentencing court for the
15 person.
16 **(b) As a rule of the community transition program, a person**
17 **convicted of a sex offense (as defined in IC 11-8-8-5.2) may not use**
18 **a social networking web site (as defined in IC 35-31.5-2-307) or an**
19 **instant messaging or chat room program (as defined in**
20 **IC 35-31.5-2-173) to communicate, directly or through an**
21 **intermediary, with a child less than sixteen (16) years of age.**
22 **However, the rules of the community transition program may**
23 **permit the offender to communicate using a social networking web**
24 **site or an instant messaging or chat room program with the**
25 **person's own child, stepchild, or sibling or another relative of the**
26 **person specifically named in the rules applicable to that person."**
27 Page 1, strike line 4.
28 Page 1, line 15, after "IC 35-42-4-12(c)." insert "**means a software**
29 **program that requires a person to register or create an account, a**
30 **username, or a password to become a member or registered user**

1 of the program and allows two (2) or more members or authorized
 2 users to communicate over the Internet in real time using typed
 3 text. The term does not include an electronic mail program or
 4 message board program."

5 Page 1, line 5, delete "IC 35-42-4-12."

6 Page 1, line 8, strike "for purposes of" and insert "**means an**
 7 **Internet web site that:**

8 (1) facilitates the social introduction between two (2) or more
 9 persons;

10 (2) requires a person to register or create an account, a
 11 username, or a password to become a member of the web site
 12 and to communicate with other members;

13 (3) allows a member to create a web page or a personal
 14 profile; and

15 (4) provides a member with the opportunity to communicate
 16 with another person.

17 **The term does not include an electronic mail program or message**
 18 **board program."**

19 Page 1, line 9, strike "IC 35-42-4-12, has the meaning set forth in".

20 Page 1, delete line 10, begin a new paragraph and insert:

21 "SECTION 3. IC 35-38-2-2.7 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE UPON PASSAGE]: **Sec. 2.7. As a condition of**
 24 **probation or parole after conviction for a sex offense (as defined in**
 25 **IC 11-8-8-5.2), the court shall prohibit the convicted person from**
 26 **using a social networking web site or an instant messaging or chat**
 27 **room program to communicate, directly or through an**
 28 **intermediary, with a child less than sixteen (16) years of age.**
 29 **However, the court may permit the offender to communicate using**
 30 **a social networking web site or an instant messaging or chat room**
 31 **program with the person's own child, stepchild, or sibling or**
 32 **another relative of the person specifically named in the court's**
 33 **order."**

34 Page 3, line 9, strike "does not apply to a person to" and insert
 35 "**applies only to a sex offender (as defined in IC 11-8-8-4.5)."**

36 Page 3, strike lines 10 through 34, begin a new paragraph and insert:

37 "**(b) A sex offender who knowingly or intentionally violates a:**

38 (1) condition of probation;

39 (2) condition of parole; or

40 (3) rule of a community transition program;

41 **that prohibits the offender from using a social networking web site**
 42 **or an instant messaging or chat room program to communicate,**
 43 **directly or through an intermediary, with a child less than sixteen**
 44 **(16) years of age, commits a sex offender internet offense, a Class**
 45 **A misdemeanor. However, the offense is a Class D felony if the**
 46 **person has a prior unrelated conviction under this section."**

- 1 Page 4, line 14, delete "(b)".
- 2 Page 4, line 14, strike "As used in this section, "instant messaging
- 3 or chat room".
- 4 Page 4, strike lines 15 through 20.
- 5 Page 4, line 21, delete "(c)".
- 6 Page 4, line 21, strike "As used in this section, "social networking
- 7 web site" means".
- 8 Page 4, strike lines 22 through 33.
- 9 Page 5, delete lines 1 through 25.
- 10 Page 5, line 34, delete "(f)" and insert "(c)".
- 11 Page 5, line 34, delete "(e)" and insert "(b)".
- 12 Page 5, after line 36, begin a new paragraph and insert:
- 13 "SECTION 5. IC 35-42-4-13, AS ADDED BY P.L.119-2008,
- 14 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 JULY 1, 2013]: Sec. 13. (a) This section does not apply to the
- 16 following:
- 17 (1) A parent, guardian, or custodian of a child.
- 18 (2) A person who acts with the permission of a child's parent,
- 19 guardian, or custodian.
- 20 (3) A person to whom a child makes a report of abuse or neglect.
- 21 (4) A person to whom a child reports medical symptoms that
- 22 relate to or may relate to sexual activity.
- 23 (b) As used in this section, "sexual activity" means sexual
- 24 intercourse, deviate sexual conduct, or the fondling or touching of the
- 25 buttocks, genitals, or female breasts.
- 26 (c) A person at least ~~twenty-one (21)~~ **eighteen (18)** years of age who
- 27 knowingly or intentionally communicates with an individual whom the
- 28 person believes to be a child less than fourteen (14) years of age
- 29 concerning sexual activity with the intent to gratify the sexual desires
- 30 of the person or the individual commits inappropriate communication
- 31 with a child, a Class B misdemeanor. However, the offense is a Class
- 32 A misdemeanor if the person commits the offense by using a computer
- 33 network (as defined in IC 35-43-2-3(a)), **and a Class D felony if the**
- 34 **person has a prior unrelated conviction for a sex offense (as**

- 1 **defined in IC 11-8-8-5.2).**
- 2 **SECTION 6. An emergency is declared for this act."**
- 3 **Renumber all SECTIONS consecutively.**
(Reference is to SB 347 as printed February 8, 2013.)

Senator TALLIAN