

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, line 3, delete ",".
28 Page 1, strike line 4.
29 Page 1, line 5, after "IC 35-42-4-12(c)." insert "**means a software**
30 **program that requires a person to register or create an account, a**

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

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

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

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

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

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

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

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

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

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

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

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

39 (1) condition of probation;

40 (2) condition of parole; or

41 (3) rule of a community transition program;

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

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

1 **person has a prior unrelated conviction for a sex offense (as**
2 **defined in IC 11-8-8-5.2).**

3 SECTION 6. **An emergency is declared for this act."**

4 Renumber all SECTIONS consecutively.

(Reference is to SB 347 as printed February 8, 2013.)

Senator TALLIAN