

IC 35-38-2.6

Chapter 2.6. Direct Placement in Community Corrections Program

IC 35-38-2.6-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 1 of this chapter by P.L.17-2001 shall not be construed to reduce or invalidate a sentence imposed before July 1, 2001.

As added by P.L.220-2011, SEC.589.

IC 35-38-2.6-1

Application of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the sentencing of a person convicted of:

- (1) a felony whenever any part of the sentence may not be suspended under IC 35-50-2-2 or IC 35-50-2-2.1;
- (2) a misdemeanor whenever any part of the sentence may not be suspended; or
- (3) an offense described in IC 35-50-2-2(b)(4)(R) (operating a vehicle while intoxicated with at least two (2) prior unrelated convictions), if the person:

(A) is required to serve the nonsuspendible part of the sentence in a community corrections:

- (i) work release program; or
- (ii) program that uses electronic monitoring as a part of the person's supervision; and

(B) participates in a court approved substance abuse program.

(b) This chapter does not apply to persons convicted of any of the following:

- (1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.
- (2) Except as provided in subsection (a)(3), any of the felonies listed in IC 35-50-2-2(b)(4).
- (3) An offense under IC 9-30-5-4.
- (4) An offense under IC 9-30-5-5.

As added by P.L.240-1991(ss2), SEC.96. Amended by P.L.144-1995, SEC.4; P.L.242-1999, SEC.9; P.L.17-2001, SEC.13; P.L.213-2005, SEC.6; P.L.151-2006, SEC.15.

IC 35-38-2.6-2

"Community corrections program" defined

Sec. 2. As used in this chapter, "community corrections program" means a program consisting of residential and work release, electronic monitoring, day treatment, or day reporting that is:

- (1) operated under a community corrections plan of a county and funded at least in part by the state subsidy provided under IC 11-12-2; or
- (2) operated by or under contract with a court or county.

As added by P.L.240-1991(ss2), SEC.96. Amended by P.L.135-1993,

SEC.6; P.L.20-1994, SEC.3.

IC 35-38-2.6-3

Suspension of sentence and order for placement; availability and terms of placement; DNA sample required

Sec. 3. (a) The court may, at the time of sentencing, suspend the sentence and order a person to be placed in a community corrections program as an alternative to commitment to the department of correction. The court may impose reasonable terms on the placement. A court shall require a person:

- (1) convicted of an offense described in IC 10-13-6-10;
- (2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
- (3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a term of placement.

(b) Placement in a community corrections program under this chapter is subject to the availability of residential beds or home detention units in a community corrections program.

(c) A person placed under this chapter is responsible for the person's own medical care while in the placement program.

(d) Placement under this chapter is subject to the community corrections program receiving a written presentence report or memorandum from a county probation agency.

As added by P.L.240-1991(ss2), SEC.96. Amended by P.L.135-1993, SEC.7; P.L.140-2006, SEC.29 and P.L.173-2006, SEC.29.

IC 35-38-2.6-4

Time period for suspension of sentence

Sec. 4. If the court places a person in a community corrections program under this chapter, the court shall suspend the sentence for a fixed period to end not later than the date the suspended sentence expires.

As added by P.L.240-1991(ss2), SEC.96.

IC 35-38-2.6-4.2

Community corrections direct placement

Sec. 4.2. (a) A community corrections program shall establish written criteria and procedures for determining if an offender or alleged offender is eligible for direct placement supervision under this chapter.

(b) The criteria and procedures established under subsection (a) must establish a record keeping system that allows the department or community corrections program to quickly determine if an offender or alleged offender is in violation of the terms of a direct placement order issued under this chapter.

(c) A community corrections program charged by a court with supervision of offenders and alleged offenders ordered to be placed directly in a community corrections program under this chapter shall provide all law enforcement agencies, including any contract agency

(as defined in IC 35-38-2.5-2.5), having jurisdiction in the place where a community corrections program is located a list of offenders and alleged offenders under direct placement supervision. The list must include the following information about each offender and alleged offender:

- (1) The offender's name, any known aliases, and the location of the offender's direct placement under this chapter.
- (2) The crime for which the offender was convicted.
- (3) The date the offender's direct placement expires.
- (4) The name, address, and telephone number of the offender's supervising community corrections program officer for direct placement under this chapter.
- (5) An indication of whether the offender is a violent offender.

(d) Except as provided in IC 35-38-2.5-6(1), a community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo direct placement under this chapter shall, at the beginning of a period of the direct placement, set any monitoring device (as defined in IC 35-38-2.5-3) and surveillance equipment to minimize the possibility that the offender or alleged offender may enter another residence or structure without the detection of a violation.

(e) A community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo direct placement under this chapter shall:

- (1) maintain or contract with a contract agency to maintain constant supervision of each offender and alleged offender as described in subsection (f); and
- (2) have adequate staff available twenty-four (24) hours each day to respond if an offender or alleged offender violates the conditions of the direct placement order under this chapter.

A community corrections program may contract with a contract agency under this subsection only if the contract agency is able to comply with subsection (f).

(f) A contract agency:

- (1) that maintains supervision of an offender or alleged offender under subsection (e)(1) shall follow the rules set by the local community corrections advisory board as a part of community corrections program direct placement written criteria and procedures; and
- (2) shall notify the contracting community corrections program within one (1) hour if the offender or alleged offender violates the conditions of the direct placement order. However, if a shorter notification time is required by the community corrections program, a community corrections advisory board must require a contract agency to comply with the shorter notification requirement for a direct placement order violation as if the offender were serving a direct placement order as part of a community corrections program.

(g) A community corrections program or contract agency charged by a court with supervision of an offender or alleged offender placed

under direct placement under this chapter shall cause a local law enforcement agency or contract agency described in this section to be the initial agency contacted upon determining that the offender is in violation of a direct placement order.

As added by P.L.105-2010, SEC.12.

IC 35-38-2.6-4.5

Home detention in community corrections program

Sec. 4.5. If a court places a person on home detention as part of a community corrections program, the placement must comply with all applicable provisions in IC 35-38-2.5.

As added by P.L.137-2001, SEC.10. Amended by P.L.105-2010, SEC.13.

IC 35-38-2.6-5

Violation of terms of placement

Sec. 5. If a person who is placed under this chapter violates the terms of the placement, the court may, after a hearing, do any of the following:

- (1) Change the terms of the placement.
- (2) Continue the placement.
- (3) Revoke the placement and commit the person to the department of correction for the remainder of the person's sentence.

As added by P.L.240-1991(ss2), SEC.96.

IC 35-38-2.6-6

Credit time

Sec. 6. (a) As used in this subsection, "home" means the actual living area of the temporary or permanent residence of a person. A person who is placed in a community corrections program under this chapter is entitled to earn credit time under IC 35-50-6.

(b) A person who is placed in a community corrections program under this chapter may be deprived of earned credit time as provided under rules adopted by the department of correction under IC 4-22-2.

As added by P.L.240-1991(ss2), SEC.96. Amended by P.L.135-1993, SEC.8; P.L.20-1994, SEC.4; P.L.105-2010, SEC.14.

IC 35-38-2.6-7

Completion of program; probation

Sec. 7. When a person completes a placement program under this chapter, the court shall place the person on probation.

As added by P.L.240-1991(ss2), SEC.96.