



January 5, 2017

SENATE BILL No. 38

DIGEST OF SB 38 (Updated December 30, 2016 11:50 pm - DI MV)

Citations Affected: IC 11-13; IC 35-44.1.

Synopsis: Lifetime parole. Requires a sexually violent predator released on lifetime parole to be placed on 24 hour GPS monitoring even if funds have not been specifically appropriated to the department of correction for this purpose. Requires the parole board to inform the superintendent of the department of correction and the county prosecuting attorney: (1) that an offender has been placed on lifetime parole; and (2) whether the offender is required to wear a GPS monitoring device as a condition of parole. Provides that a person placed on lifetime parole who violates a condition of parole involving a child or a victim commits criminal parole violation by a sexual predator. (Under current law, a person commits the offense only if the person has two previous parole violations or if the person has completely served the person's sentence.)

Effective: July 1, 2017.

Zakas

January 3, 2017, read first time and referred to Committee on Rules and Legislative Procedure.

January 4, 2017, amended, reported favorably — Do Pass. Reassigned to Committee on Corrections and Criminal Law.

SB 38—LS 6281/DI 13



January 5, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 38

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 11-13-3-4, AS AMENDED BY P.L.209-2015,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 4. (a) A condition to remaining on parole is that
4 the parolee not commit a crime during the period of parole.
5 (b) The parole board may also adopt, under IC 4-22-2, additional
6 conditions to remaining on parole and require a parolee to satisfy one
7 (1) or more of these conditions. These conditions must be reasonably
8 related to the parolee's successful reintegration into the community and
9 not unduly restrictive of a fundamental right.
10 (c) If a person is released on parole, the parolee shall be given a
11 written statement of the conditions of parole. Signed copies of this
12 statement shall be:
13 (1) retained by the parolee;
14 (2) forwarded to any person charged with the parolee's
15 supervision; and
16 (3) placed in the parolee's master file.
17 (d) The parole board may modify parole conditions if the parolee

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1 receives notice of that action and had ten (10) days after receipt of the
 2 notice to express the parolee's views on the proposed modification.
 3 This subsection does not apply to modification of parole conditions
 4 after a revocation proceeding under section 10 of this chapter.

5 (e) As a condition of parole, the parole board may require the
 6 parolee to reside in a particular parole area. In determining a parolee's
 7 residence requirement, the parole board shall:

8 (1) consider:

9 (A) the residence of the parolee prior to the parolee's
 10 incarceration; and

11 (B) the parolee's place of employment; and

12 (2) assign the parolee to reside in the county where the parolee
 13 resided prior to the parolee's incarceration unless assignment on
 14 this basis would be detrimental to the parolee's successful
 15 reintegration into the community.

16 (f) As a condition of parole, the parole board may require the
 17 parolee to:

18 (1) periodically undergo a laboratory chemical test (as defined in
 19 IC 9-13-2-22) or series of tests to detect and confirm the presence
 20 of a controlled substance (as defined in IC 35-48-1-9); and

21 (2) have the results of any test under this subsection reported to
 22 the parole board by the laboratory.

23 The parolee is responsible for any charges resulting from a test
 24 required under this subsection. However, a person's parole may not be
 25 revoked on the basis of the person's inability to pay for a test under this
 26 subsection.

27 (g) As a condition of parole, the parole board:

28 (1) may require a parolee who is a sex offender (as defined in
 29 IC 11-8-8-4.5) to:

30 (A) participate in a treatment program for sex offenders
 31 approved by the parole board; and

32 (B) avoid contact with any person who is less than sixteen (16)
 33 years of age unless the parolee:

34 (i) receives the parole board's approval; or

35 (ii) successfully completes the treatment program referred to
 36 in clause (A); and

37 (2) shall:

38 (A) require a parolee who is a sex or violent offender (as
 39 defined in IC 11-8-8-5) to register with a local law
 40 enforcement authority under IC 11-8-8;

41 (B) prohibit a parolee who is a sex offender from residing
 42 within one thousand (1,000) feet of school property (as defined



- 1 in IC 35-31.5-2-285) for the period of parole, unless the sex
 2 offender obtains written approval from the parole board;
- 3 (C) prohibit a parolee who is a sex offender convicted of a sex
 4 offense (as defined in IC 35-38-2-2.5) from residing within
 5 one (1) mile of the victim of the sex offender's sex offense
 6 unless the sex offender obtains a waiver under IC 35-38-2-2.5;
- 7 (D) prohibit a parolee who is a sex offender from owning,
 8 operating, managing, being employed by, or volunteering at
 9 any attraction designed to be primarily enjoyed by children
 10 less than sixteen (16) years of age;
- 11 (E) require a parolee who is a sex offender to consent:
- 12 (i) to the search of the sex offender's personal computer at
 13 any time; and
- 14 (ii) to the installation on the sex offender's personal
 15 computer or device with Internet capability, at the sex
 16 offender's expense, of one (1) or more hardware or software
 17 systems to monitor Internet usage; and
- 18 (F) prohibit the sex offender from:
- 19 (i) accessing or using certain web sites, chat rooms, or
 20 instant messaging programs frequented by children; and
- 21 (ii) deleting, erasing, or tampering with information on the
 22 sex offender's personal computer with intent to conceal an
 23 activity prohibited by item (i).
- 24 The parole board may not grant a sexually violent predator (as defined
 25 in IC 35-38-1-7.5) or a sex offender who is an offender against children
 26 under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the
 27 parole board allows the sex offender to reside within one thousand
 28 (1,000) feet of school property under subdivision (2)(B), the parole
 29 board shall notify each school within one thousand (1,000) feet of the
 30 sex offender's residence of the order.
- 31 (h) The address of the victim of a parolee who is a sex offender
 32 convicted of a sex offense (as defined in IC 35-38-2-2.5) is
 33 confidential, even if the sex offender obtains a waiver under
 34 IC 35-38-2-2.5.
- 35 (i) As a condition of parole, the parole board may require a parolee
 36 to participate in a reentry court program.
- 37 (j) As a condition of parole, the parole board:
- 38 (1) shall require a parolee who is a sexually violent predator
 39 under IC 35-38-1-7.5; and
- 40 (2) may require a parolee who is a sex or violent offender (as
 41 defined in IC 11-8-8-5);
- 42 to wear a monitoring device (as described in IC 35-38-2.5-3) that can



1 transmit information twenty-four (24) hours each day regarding a
 2 person's precise location. ~~subject to the amount appropriated to the~~
 3 ~~department for a monitoring program as a condition of parole.~~

4 (k) As a condition of parole, the parole board may prohibit, in
 5 accordance with IC 35-38-2-2.6, a parolee who has been convicted of
 6 stalking from residing within one thousand (1,000) feet of the residence
 7 of the victim of the stalking for a period that does not exceed five (5)
 8 years.

9 (l) As a condition of parole, the parole board may prohibit a parolee
 10 convicted of an offense under IC 35-46-3 from owning, harboring, or
 11 training an animal, and, if the parole board prohibits a parolee
 12 convicted of an offense under IC 35-46-3 from having direct or indirect
 13 contact with an individual, the parole board may also prohibit the
 14 parolee from having direct or indirect contact with any animal
 15 belonging to the individual.

16 (m) As a condition of parole, the parole board may require a parolee
 17 to receive:

- 18 (1) addiction counseling;
- 19 (2) inpatient detoxification;
- 20 (3) case management;
- 21 (4) daily living skills; and
- 22 (5) medication assisted treatment, including a federal Food and
 23 Drug Administration approved long acting, nonaddictive
 24 medication for the treatment of opioid or alcohol dependence.

25 (n) A parolee may be responsible for the reasonable expenses, as
 26 determined by the department, of the parolee's participation in a
 27 treatment or other program required as a condition of parole under this
 28 section. However, a person's parole may not be revoked solely on the
 29 basis of the person's inability to pay for a program required as a
 30 condition of parole under this section.

31 **(o) When an offender is placed on lifetime parole, the parole**
 32 **board shall inform the superintendent and the prosecuting**
 33 **attorney of the county in which the offender committed the offense:**

- 34 **(1) that the offender has been placed on lifetime parole; and**
- 35 **(2) whether the offender is required to wear a monitoring**
 36 **device as described in subsection (j).**

37 SECTION 2. IC 35-44.1-3-9, AS AMENDED BY P.L.74-2015,
 38 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2017]: Sec. 9. (a) A person who is being supervised on
 40 lifetime parole (as described in IC 35-50-6-1) and who knowingly or
 41 intentionally violates a condition of lifetime parole that involves direct
 42 or indirect contact with a child less than sixteen (16) years of age or



1 with the victim of a crime that was committed by the person commits
2 **criminal parole violation by a sexual predator**, a Level 6 felony. ~~if,~~
3 at the time of the violation:
4 (1) the person's lifetime parole has been revoked two (2) or more
5 times; or
6 (2) the person has completed the person's sentence, including any
7 educational credit or good time credit the person may have
8 earned.
9 (b) The offense described in subsection (a) is a Level 5 felony if the
10 person has a prior unrelated conviction under this section.



COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 38, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections and Criminal Law.

(Reference is to SB38 as introduced.)

LONG, Chairperson

