

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 ENROLLED ACT No. 38

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-13-3-4, AS AMENDED BY P.L.209-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the

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parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) shall:

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

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-31.5-2-285) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense



unless the sex offender obtains a waiver under IC 35-38-2-2.5;
 (D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board ~~(1)~~ shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5 ~~and (2)~~ **may require a parolee or** who is a sex or violent offender (as defined in IC 11-8-8-5) to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, **subject to a validated sex offender risk assessment, and** subject to the amount appropriated to the department for a monitoring program as a condition of parole.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence



of the victim of the stalking for a period that does not exceed five (5) years.

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

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

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

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

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

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

SECTION 2. IC 35-38-9-2, AS AMENDED BY P.L.142-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) Except as provided in subsection (b) and section 8.5 of this chapter, this section applies only to a person convicted of a misdemeanor, including a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) reduced to a misdemeanor.

(b) This section does not apply to **the following**:

- (1) A person convicted of two (2) or more felony offenses that:
 - (~~1~~) **(A)** involved the unlawful use of a deadly weapon; and
 - (~~2~~) **(B)** were not committed as part of the same episode of criminal conduct.



(2) A sex or violent offender (as defined in IC 11-8-8-5).

(c) Not earlier than five (5) years after the date of conviction (unless the prosecuting attorney consents in writing to an earlier period), the person convicted of the misdemeanor may petition a court to expunge all conviction records, including records contained in:

- (1) a court's files;
- (2) the files of the department of correction;
- (3) the files of the bureau of motor vehicles; and
- (4) the files of any other person who provided treatment or services to the petitioning person under a court order;

that relate to the person's misdemeanor conviction.

(d) A person who files a petition to expunge conviction records shall file the petition in a circuit or superior court in the county of conviction.

(e) If the court finds by a preponderance of the evidence that:

- (1) the period required by this section has elapsed;
- (2) no charges are pending against the person;
- (3) the person has paid all fines, fees, and court costs, and satisfied any restitution obligation placed on the person as part of the sentence; and
- (4) the person has not been convicted of a crime within the previous five (5) years (or within a shorter period agreed to by the prosecuting attorney if the prosecuting attorney has consented to a shorter period under subsection (c));

the court shall order the conviction records described in subsection (c) expunged in accordance with section 6 of this chapter.

SECTION 3. IC 35-44.1-3-9, AS AMENDED BY P.L.74-2015, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a crime that was committed by the person commits **criminal parole violation by a sexual predator**, a Level 6 felony. ~~if, at the time of the violation:~~

- ~~(1) the person's lifetime parole has been revoked two (2) or more times; or~~
- ~~(2) the person has completed the person's sentence, including any educational credit or good time credit the person may have earned.~~

(b) The offense described in subsection (a) is a Level 5 felony if the person has a prior unrelated conviction under this section.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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