



February 16, 2018

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## ENGROSSED HOUSE BILL No. 1034

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DIGEST OF HB 1034 (Updated February 13, 2018 12:16 pm - DI 84)

**Citations Affected:** IC 35-38.

**Synopsis:** Home detention matters. Eliminates the requirement that a period of home detention ordered as a condition of probation must be at least 60 days. Allows a court to approve activities for an offender that do not require the offender to be confined to the offender's home at all times. Provides that an offender must maintain a working telephone, cellular telephone, or other wireless or cellular communications device in the offender's home as a condition of being on home detention.

**Effective:** July 1, 2018.

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### Lehman, McNamara, Hatfield

(SENATE SPONSOR — GLICK)

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January 3, 2018, read first time and referred to Committee on Courts and Criminal Code.  
January 11, 2018, reported — Do Pass.  
January 16, 2018, read second time, ordered engrossed. Engrossed.  
January 18, 2018, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 1, 2018, read first time and referred to Committee on Corrections and Criminal Law.  
February 15, 2018, reported favorably — Do Pass.

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EH 1034—LS 6531/DI 131





February 16, 2018

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1034

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 35-38-2.5-5, AS AMENDED BY P.L.149-2016,  
2 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 5. (a) Except as provided in section 5.5 of this  
4 chapter, as a condition of probation a court may order an offender  
5 confined to the offender's home for a period of home detention. ~~lasting~~  
6 ~~at least sixty (60) days.~~  
7 (b) The period of home detention may be consecutive or  
8 nonconsecutive, as the court orders. However, the aggregate time  
9 actually spent in home detention must not exceed:  
10 (1) the minimum term of imprisonment prescribed for a felony  
11 under IC 35-50-2; or  
12 (2) the maximum term of imprisonment prescribed for a  
13 misdemeanor under IC 35-50-3;  
14 for the crime committed by the offender.  
15 (c) The court may order supervision of an offender's home detention  
16 to be provided by the probation department for the court or by a  
17 community corrections program that provides supervision of home

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1 detention.

2 (d) A person's term of confinement on home detention under this  
3 chapter is computed on the basis of accrued time on home detention  
4 plus any good time credit.

5 (e) A person confined on home detention as a condition of probation  
6 receives one (1) day of accrued time for each day the person is  
7 confined on home detention.

8 (f) In addition to accrued time under subsection (e), a person  
9 confined on home detention as a condition of probation is entitled to  
10 earn good time credit under IC 35-50-6-3 or IC 35-50-6-3.1. A person  
11 confined on home detention as a condition of probation may not earn  
12 educational credit under IC 35-50-6-3.3.

13 (g) A person confined on home detention may be deprived of earned  
14 good time credit if the person violates a condition of probation.

15 SECTION 2. IC 35-38-2.5-6, AS AMENDED BY P.L.111-2017,  
16 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2018]: Sec. 6. An order for home detention of an offender  
18 under section 5 of this chapter must include the following:

19 (1) A requirement that the offender be confined to the offender's  
20 home at all times except when the offender is:

21 (A) working at employment approved by the court or traveling  
22 to or from approved employment;

23 (B) unemployed and seeking employment approved for the  
24 offender by the court;

25 (C) undergoing medical, psychiatric, mental health treatment,  
26 counseling, or other treatment programs approved for the  
27 offender by the court;

28 (D) attending an educational institution or a program approved  
29 for the offender by the court;

30 (E) attending a regularly scheduled religious service at a place  
31 of worship; ~~or~~

32 (F) participating in a community work release or community  
33 restitution or service program approved for the offender by the  
34 court; ~~or~~

35 **(G) participating in any other activity approved for the  
36 offender by the court.**

37 (2) Notice to the offender that violation of the order for home  
38 detention may subject the offender to prosecution for the crime of  
39 escape under IC 35-44.1-3-4.

40 (3) A requirement that the offender abide by a schedule prepared  
41 by the probation department, or by a community corrections  
42 program ordered to provide supervision of the offender's home



- 1 detention, specifically setting forth the times when the offender  
2 may be absent from the offender's home and the locations the  
3 offender is allowed to be during the scheduled absences.
- 4 (4) A requirement that the offender is not to commit another  
5 crime during the period of home detention ordered by the court.
- 6 (5) A requirement that the offender obtain approval from the  
7 probation department or from a community corrections program  
8 ordered to provide supervision of the offender's home detention  
9 before the offender changes residence or the schedule described  
10 in subdivision (3).
- 11 (6) A requirement that the offender maintain:
- 12 (A) a working telephone, **cellular telephone, or other**  
13 **wireless or cellular communications device** in the offender's  
14 home; and
- 15 (B) if ordered by the court, a monitoring device in the  
16 offender's home or on the offender's person, or both.
- 17 (7) A requirement that the offender pay a home detention fee set  
18 by the court in addition to the probation user's fee required under  
19 IC 35-38-2-1 or IC 31-40. However, the fee set under this  
20 subdivision may not exceed the maximum fee specified by the  
21 department of correction under IC 11-12-2-12.
- 22 (8) A requirement that the offender abide by other conditions of  
23 probation set by the court under IC 35-38-2-2.3.
- 24 (9) A requirement that an offender:
- 25 (A) who is described in IC 10-13-6-10(a);  
26 (B) who has not previously provided a DNA sample in  
27 accordance with IC 10-13-6; and  
28 (C) whose sentence does not involve a commitment to the  
29 department of correction;  
30 provide a DNA sample.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1034, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1034 as introduced.)

WASHBURNE

Committee Vote: Yeas 10, Nays 0

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1034, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1034 as printed January 12, 2018.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 0

