

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.

HOUSE ENROLLED ACT No. 1034

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

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

SECTION 1. IC 35-38-2.5-5, AS AMENDED BY P.L.149-2016, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) Except as provided in section 5.5 of this chapter, as a condition of probation a court may order an offender confined to the offender's home for a period of home detention. ~~lasting at least sixty (60) days.~~

(b) The period of home detention may be consecutive or nonconsecutive, as the court orders. However, the aggregate time actually spent in home detention must not exceed:

- (1) the minimum term of imprisonment prescribed for a felony under IC 35-50-2; or
- (2) the maximum term of imprisonment prescribed for a misdemeanor under IC 35-50-3;

for the crime committed by the offender.

(c) The court may order supervision of an offender's home detention to be provided by the probation department for the court or by a community corrections program that provides supervision of home detention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A requirement that the offender abide by a schedule prepared by the probation department, or by a community corrections program ordered to provide supervision of the offender's home detention, specifically setting forth the times when the offender may be absent from the offender's home and the locations the offender is allowed to be during the scheduled absences.

(4) A requirement that the offender is not to commit another

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- crime during the period of home detention ordered by the court.
- (5) A requirement that the offender obtain approval from the probation department or from a community corrections program ordered to provide supervision of the offender's home detention before the offender changes residence or the schedule described in subdivision (3).
- (6) A requirement that the offender maintain:
- (A) a working telephone, **cellular telephone, or other wireless or cellular communications device** in the offender's home; and
 - (B) if ordered by the court, a monitoring device in the offender's home or on the offender's person, or both.
- (7) A requirement that the offender pay a home detention fee set by the court in addition to the probation user's fee required under IC 35-38-2-1 or IC 31-40. However, the fee set under this subdivision may not exceed the maximum fee specified by the department of correction under IC 11-12-2-12.
- (8) A requirement that the offender abide by other conditions of probation set by the court under IC 35-38-2-2.3.
- (9) A requirement that an offender:
- (A) who is described in IC 10-13-6-10(a);
 - (B) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
 - (C) whose sentence does not involve a commitment to the department of correction;
- provide a DNA sample.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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