

HOUSE BILL No. 1227

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; IC 35-38-2-2.9; IC 35-42-4-11; IC 35-46-1-15.1.

Synopsis: Sex offender employment restrictions. Provides that an offender against children who knowingly or intentionally: (1) obtains employment within 1,000 feet of school property, not including property of an institution providing postsecondary education, a youth program center, a public park, or a licensed day care center; (2) obtains employment within one mile of the residence of the victim of the offender's sex offense; or (3) obtains employment where a child care provider provides child care services; commits a Level 6 felony. Defines "employment". Makes conforming changes.

Effective: July 1, 2022.

Lindauer

January 6, 2022, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1227

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 35-31.5-2-115.8 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2022]: **Sec. 115.8. "Employment", for**
- 4 **purposes of IC 35-42-4-11, has the meaning set forth in**
- 5 **IC 35-42-4-11.**
- 6 SECTION 2. IC 35-31.5-2-275, AS ADDED BY P.L.114-2012,
- 7 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2022]: Sec. 275. "Reside", for purposes of IC 35-42-4-11, has
- 9 the meaning set forth in ~~IC 35-42-4-11(b)~~. **IC 35-42-4-11.**
- 10 SECTION 3. IC 35-38-2-2.9, AS ADDED BY P.L.220-2019,
- 11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2022]: Sec. 2.9. As a condition of probation, the court shall
- 13 inform an offender against children (as described in IC 35-42-4-11) of
- 14 the residency restrictions described in ~~IC 35-42-4-11(c)(1)~~.
- 15 **IC 35-42-4-11(d)(1).**
- 16 SECTION 4. IC 35-42-4-11, AS AMENDED BY P.L.142-2020,
- 17 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2022]: Sec. 11. (a) As used in this section, and except as
 2 provided in subsection ~~(d)~~; **(e)**, "offender against children" means a
 3 person required to register as a sex or violent offender under IC 11-8-8
 4 who has been:

- 5 (1) found to be a sexually violent predator under IC 35-38-1-7.5;
 6 or
 7 (2) convicted of one (1) or more of the following offenses:
 8 (A) Child molesting (IC 35-42-4-3).
 9 (B) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
 10 (C) Child solicitation (IC 35-42-4-6).
 11 (D) Child seduction (IC 35-42-4-7).
 12 (E) Kidnapping (IC 35-42-3-2), if the victim is less than
 13 eighteen (18) years of age, and the person is not the child's
 14 parent or guardian.

15 A person is an offender against children by operation of law if the
 16 person meets the conditions described in subdivision (1) or (2) at any
 17 time.

18 **(b) As used in this section, "employment" means an offender's**
 19 **principal employment or vocation.**

20 ~~(b)~~ **(c)** As used in this section, "reside" means to spend more than
 21 three (3) nights in:

- 22 (1) a residence; or
 23 (2) if the person does not reside in a residence, a particular
 24 location;

25 in any thirty (30) day period.

26 ~~(c)~~ **(d)** An offender against children who knowingly or intentionally:

27 (1) resides **or obtains employment** within one thousand (1,000)
 28 feet of:

- 29 (A) school property, not including property of an institution
 30 providing ~~post-secondary~~ **postsecondary** education;
 31 (B) a youth program center;
 32 (C) a public park; or
 33 (D) a day care center licensed under IC 12-17.2;

34 (2) establishes a residence **or obtains employment** within one (1)
 35 mile of the residence of the victim of the offender's sex offense;
 36 or

37 (3) resides in a residence **or obtains employment** where a child
 38 care provider (as defined by IC 31-33-26-1) provides child care
 39 services;

40 commits a ~~sex offender residency offense~~; a Level 6 felony.

41 ~~(d)~~ **(e)** This subsection does not apply to an offender against
 42 children who has two (2) or more unrelated convictions for an offense



1 described in subsection (a). A person who is an offender against
 2 children may petition the court to consider whether the person should
 3 no longer be considered an offender against children. The person may
 4 file a petition under this subsection not earlier than ten (10) years after
 5 the person is released from incarceration or parole, whichever occurs
 6 last (or, if the person is not incarcerated, not earlier than ten (10) years
 7 after the person is released from probation). A person may file a
 8 petition under this subsection not more than one (1) time per year. A
 9 court may dismiss a petition filed under this subsection or conduct a
 10 hearing to determine if the person should no longer be considered an
 11 offender against children. If the court conducts a hearing, the court
 12 shall appoint two (2) psychologists or psychiatrists who have expertise
 13 in criminal behavioral disorders to evaluate the person and testify at the
 14 hearing. After conducting the hearing and considering the testimony of
 15 the two (2) psychologists or psychiatrists, the court shall determine
 16 whether the person should no longer be considered an offender against
 17 children. If a court finds that the person should no longer be considered
 18 an offender against children, the court shall send notice to the
 19 department of correction that the person is no longer considered an
 20 offender against children.

21 SECTION 5. IC 35-46-1-15.1, AS AMENDED BY P.L.266-2019,
 22 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2022]: Sec. 15.1. (a) A person who knowingly or intentionally
 24 violates:

- 25 (1) a protective order to prevent domestic or family violence or
 26 harassment issued under IC 34-26-5 (or, if the order involved a
 27 family or household member, under IC 34-26-2 or IC 34-4-5.1-5
 28 before their repeal);
- 29 (2) an ex parte protective order issued under IC 34-26-5 (or, if the
 30 order involved a family or household member, an emergency
 31 order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
- 32 (3) a workplace violence restraining order issued under
 33 IC 34-26-6;
- 34 (4) a no contact order in a dispositional decree issued under
 35 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4
 36 or IC 31-6-4-15.9 before their repeal) or an order issued under
 37 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the
 38 person to refrain from direct or indirect contact with a child in
 39 need of services or a delinquent child;
- 40 (5) a no contact order issued as a condition of pretrial release,
 41 including release on bail or personal recognizance, or pretrial
 42 diversion, and including a no contact order issued under



- 1 IC 35-33-8-3.6;
- 2 (6) a no contact order issued as a condition of probation;
- 3 (7) a protective order to prevent domestic or family violence
- 4 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before
- 5 their repeal);
- 6 (8) a protective order to prevent domestic or family violence
- 7 issued under IC 31-14-16-1 in a paternity action;
- 8 (9) an order issued in another state that is substantially similar to
- 9 an order described in subdivisions (1) through (8);
- 10 (10) an order that is substantially similar to an order described in
- 11 subdivisions (1) through (8) and is issued by an Indian:
- 12 (A) tribe;
- 13 (B) band;
- 14 (C) pueblo;
- 15 (D) nation; or
- 16 (E) organized group or community, including an Alaska
- 17 Native village or regional or village corporation as defined in
- 18 or established under the Alaska Native Claims Settlement Act
- 19 (43 U.S.C. 1601 et seq.);
- 20 that is recognized as eligible for the special programs and services
- 21 provided by the United States to Indians because of their special
- 22 status as Indians;
- 23 (11) an order issued under IC 35-33-8-3.2; or
- 24 (12) an order issued under IC 35-38-1-30;
- 25 commits invasion of privacy, a Class A misdemeanor. However, the
- 26 offense is a Level 6 felony if the person has a prior unrelated
- 27 conviction for an offense under this subsection.
- 28 (b) It is not a defense to a prosecution under subsection (a) that the
- 29 accused person used or operated an unmanned aerial vehicle in
- 30 committing the violation.
- 31 (c) A sex offender under IC 11-8-8-4.5 who:
- 32 (1) establishes a new residence within a one (1) mile radius of the
- 33 residence of the victim of the offender's sex offense;
- 34 (2) intends to reside (as defined in ~~IC 35-42-4-11(b)~~
- 35 **IC 35-42-4-11**) at the residence; and
- 36 (3) at the time the sex offender established the residence, knew or
- 37 reasonably should have known that the residence was located
- 38 within a one (1) mile radius of the residence of the victim of the
- 39 offender's sex offense;
- 40 commits invasion of privacy, a Class A misdemeanor. However, the
- 41 offense is a Level 6 felony if the sex offender has a prior unrelated
- 42 conviction under this subsection.



1 (d) The victim of the sex offender's sex offense may not be
2 prosecuted under subsection (c) if the victim's liability is based on
3 aiding, inducing, or causing the offender to commit the offense
4 described in subsection (c).

5 (e) Subsection (c) does not apply to a sex offender who has obtained
6 a waiver of residency under IC 35-38-2-2.5 or IC 35-38-1-33.

