

## SENATE BILL No. 12

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-13-3-4; IC 35-31.5-2; IC 35-38-2-2.5; IC 35-42-4-11.5.

**Synopsis:** Unlawful encroachment by a sex offender. Provides that a sex offender who establishes a residence: (1) with the intent to reside at the residence; and (2) within a one mile radius of the residence of the victim of the offender's sex offense; commits unlawful encroachment by a sex offender, a Level 6 felony. Makes conforming changes.

**Effective:** July 1, 2018.

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January 3, 2018, read first time and referred to Committee on Corrections and Criminal Law.

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Second Regular Session 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.

# SENATE BILL No. 12



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 11-13-3-4, AS AMENDED BY P.L.95-2017,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2018]: 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



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 ~~(H)~~ 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)~~ (C) 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)~~ (D) 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)~~ (E) 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  
27 the 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)~~ (h) As a condition of parole, the parole board may require a  
36 parolee to participate in a reentry court program.

37 ~~(j)~~ (i) As a condition of parole, the parole board shall require a  
38 parolee who is a sexually violent predator under IC 35-38-1-7.5 or who  
39 is a sex or violent offender (as defined in IC 11-8-8-5) to wear a  
40 monitoring device (as described in IC 35-38-2.5-3) that can transmit  
41 information twenty-four (24) hours each day regarding a person's  
42 precise location, subject to a validated sex offender risk assessment,



1 and subject to the amount appropriated to the department for a  
2 monitoring program as a condition of parole.

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

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

15 ~~(m)~~ **(l)** As a condition of parole, the parole board may require a  
16 parolee to receive:

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

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

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

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

36 SECTION 2. IC 35-31.5-2-275, AS ADDED BY P.L.114-2012,  
37 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2018]: Sec. 275. "Reside", for purposes of IC 35-42-4-11 **and**  
39 **IC 35-42-4-11.5**, has the meaning set forth in IC 35-42-4-11(b).

40 SECTION 3. IC 35-31.5-2-297, AS ADDED BY P.L.114-2012,  
41 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2018]: Sec. 297. (a) "~~Sex offense~~"; for purposes of



1 ~~IC 35-38-2-2.5, has the meaning set forth in IC 35-38-2-2.5(b):~~

2 ~~(b) "Sex offense", for purposes of IC 35-50-2-14, has the meaning~~  
 3 ~~set forth in IC 35-50-2-14(a).~~

4 SECTION 4. IC 35-38-2-2.5, AS AMENDED BY P.L.13-2016,  
 5 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2018]: Sec. 2.5. (a) As used in this section, "offender" means  
 7 an individual convicted of a sex offense.

8 ~~(b) As used in this section, "sex offense" means any of the~~  
 9 ~~following:~~

10 ~~(1) Rape (IC 35-42-4-1):~~

11 ~~(2) Criminal deviate conduct (IC 35-42-4-2) (repealed):~~

12 ~~(3) Child molesting (IC 35-42-4-3):~~

13 ~~(4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)):~~

14 ~~(5) Vicarious sexual gratification (IC 35-42-4-5):~~

15 ~~(6) Child solicitation (IC 35-42-4-6):~~

16 ~~(7) Child seduction (IC 35-42-4-7):~~

17 ~~(8) Sexual battery (IC 35-42-4-8):~~

18 ~~(9) Sexual misconduct with a minor as a felony (IC 35-42-4-9):~~

19 ~~(10) Incest (IC 35-46-1-3):~~

20 ~~(c) A condition of remaining on probation or parole after conviction~~  
 21 ~~for a sex offense is that the offender not reside within one (1) mile of~~  
 22 ~~the residence of the victim of the offender's sex offense:~~

23 ~~(d) (b) An offender:~~

24 (1) who will be placed on probation shall provide the sentencing  
 25 court and the probation department with the address where the  
 26 offender intends to reside during the period of probation:

27 (A) at the time of sentencing if the offender will be placed on  
 28 probation without first being incarcerated; or

29 (B) before the offender's release from incarceration if the  
 30 offender will be placed on probation after completing a term  
 31 of incarceration; or

32 (2) who will be placed on parole shall provide the parole board  
 33 with the address where the offender intends to reside during the  
 34 period of parole.

35 ~~(e) An offender, while on probation or parole, may not establish a~~  
 36 ~~new residence within one (1) mile of the residence of the victim of the~~  
 37 ~~offender's sex offense unless the offender first obtains a waiver from~~  
 38 ~~the:~~

39 ~~(1) court, if the offender is placed on probation; or~~

40 ~~(2) parole board, if the offender is placed on parole;~~

41 ~~for the change of address under subsection (f).~~

42 ~~(f) The court or parole board may waive the requirement set forth in~~



1 subsection (c) only if the court or parole board, at a hearing at which  
 2 the offender is present and of which the prosecuting attorney has been  
 3 notified, determines that:

- 4 (1) the offender has successfully completed a sex offender  
 5 treatment program during the period of probation or parole;  
 6 (2) the offender is in compliance with all terms of the offender's  
 7 probation or parole; and  
 8 (3) good cause exists to allow the offender to reside within one (1)  
 9 mile of the residence of the victim of the offender's sex offense.

10 However, the court or parole board may not grant a waiver under this  
 11 subsection if the offender is a sexually violent predator under  
 12 IC 35-38-1-7.5 or if the offender is an offender against children under  
 13 IC 35-42-4-11.

14 (g) If the court or parole board grants a waiver under subsection (f),  
 15 the court or parole board shall state in writing the reasons for granting  
 16 the waiver. The court's written statement of its reasons shall be  
 17 incorporated into the record.

18 (h) The address of the victim of the offender's sex offense is  
 19 confidential even if the court or parole board grants a waiver under  
 20 subsection (f).

21 SECTION 5. IC 35-42-4-11.5 IS ADDED TO THE INDIANA  
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 2018]: **Sec. 11.5. (a) As used in this section,**  
 24 **"reside" has the meaning set forth in section 11 of this chapter.**

25 **(b) As used in this section, "sex offender" has the meaning set**  
 26 **forth in IC 11-8-8-4.5.**

27 **(c) A sex offender who knowingly or intentionally establishes a**  
 28 **residence:**

- 29 **(1) with the intent to reside at the residence; and**  
 30 **(2) within a one (1) mile radius of the residence of the victim**  
 31 **of the offender's sex offense;**

32 **commits unlawful encroachment by a sex offender, a Level 6**  
 33 **felony.**

