

SENATE BILL No. 173

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-42-4-11.

Synopsis: Sex offender residency restrictions. Provides that an offender against children who knowingly or intentionally resides within 1,000 feet of certain areas owned, leased, operated, or maintained by a homeowners association or property owners association commits a sex offender residency offense, a Level 6 felony.

Effective: July 1, 2023.

Dernule

January 9, 2023, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 173

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 35-42-4-11, AS AMENDED BY P.L.142-2020,
2 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 11. (a) As used in this section, and except as
4 provided in subsection (d), "offender against children" means a person
5 required to register as a sex or violent offender under IC 11-8-8 who
6 has been:
7 (1) found to be a sexually violent predator under IC 35-38-1-7.5;
8 or
9 (2) convicted of one (1) or more of the following offenses:
10 (A) Child molesting (IC 35-42-4-3).
11 (B) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
12 (C) Child solicitation (IC 35-42-4-6).
13 (D) Child seduction (IC 35-42-4-7).
14 (E) Kidnapping (IC 35-42-3-2), if the victim is less than
15 eighteen (18) years of age, and the person is not the child's
16 parent or guardian.
17 A person is an offender against children by operation of law if the



- 1 person meets the conditions described in subdivision (1) or (2) at any
 2 time.
- 3 (b) As used in this section, "reside" means to spend more than three
 4 (3) nights in:
- 5 (1) a residence; or
 6 (2) if the person does not reside in a residence, a particular
 7 location;
 8 in any thirty (30) day period.
- 9 (c) An offender against children who knowingly or intentionally:
- 10 (1) resides within one thousand (1,000) feet of:
- 11 (A) school property, not including property of an institution
 12 providing post-secondary education;
 13 (B) a youth program center;
 14 (C) a public park; **or**
 15 (D) a day care center licensed under IC 12-17.2; **or**
 16 **(E) a:**
 17 **(i) park;**
 18 **(ii) playground;**
 19 **(iii) swimming pool;**
 20 **(iv) beach; or**
 21 **(v) clubhouse;**
 22 **owned, leased, operated, or maintained by a homeowners**
 23 **association (as defined in IC 32-25.5-2-4) or a property**
 24 **owners association;**
- 25 (2) establishes a residence within one (1) mile of the residence of
 26 the victim of the offender's sex offense; or
 27 (3) resides in a residence where a child care provider (as defined
 28 by IC 31-33-26-1) provides child care services;
 29 commits a sex offender residency offense, a Level 6 felony.
- 30 (d) This subsection does not apply to an offender against children
 31 who has two (2) or more unrelated convictions for an offense described
 32 in subsection (a). A person who is an offender against children may
 33 petition the court to consider whether the person should no longer be
 34 considered an offender against children. The person may file a petition
 35 under this subsection not earlier than ten (10) years after the person is
 36 released from incarceration or parole, whichever occurs last (or, if the
 37 person is not incarcerated, not earlier than ten (10) years after the
 38 person is released from probation). A person may file a petition under
 39 this subsection not more than one (1) time per year. A court may
 40 dismiss a petition filed under this subsection or conduct a hearing to
 41 determine if the person should no longer be considered an offender
 42 against children. If the court conducts a hearing, the court shall appoint



1 two (2) psychologists or psychiatrists who have expertise in criminal
2 behavioral disorders to evaluate the person and testify at the hearing.
3 After conducting the hearing and considering the testimony of the two
4 (2) psychologists or psychiatrists, the court shall determine whether the
5 person should no longer be considered an offender against children. If
6 a court finds that the person should no longer be considered an offender
7 against children, the court shall send notice to the department of
8 correction that the person is no longer considered an offender against
9 children.

