



January 20, 2023

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## SENATE BILL No. 179

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DIGEST OF SB 179 (Updated January 17, 2023 12:47 pm - DI 106)

**Citations Affected:** IC 35-38; IC 35-44.1.

**Synopsis:** Home detention. Provides that a court may not order a person convicted of a: (1) Level 1 felony; or (2) crime subject to certain enhancement; to a community corrections program. Allows a court to place a person in a community corrections program as an alternative to commitment to the county jail or department of correction. Repeals a requirement that a court suspend the sentence for a person placed in a community corrections program. Specifies that a person sentenced to work release in a community corrections program receives one day of accrued time for each day the person is confined on work release. (Current law only specifies that a person on home detention earns accrued time.) Provides that the violation of a home detention placement term constitutes the crime of escape under certain circumstances. Makes technical changes.

**Effective:** Upon passage; July 1, 2023.

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January 9, 2023, read first time and referred to Committee on Corrections and Criminal Law.  
January 19, 2023, amended, reported favorably — Do Pass.

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SB 179—LS 6298/DI 149





January 20, 2023

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. 179

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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.21-2018,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: 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.  
6 (b) The period of home detention may be consecutive or  
7 nonconsecutive, as the court orders. However, the aggregate time  
8 actually spent in home detention must not exceed  
9 ~~(1) the minimum term of imprisonment prescribed for a felony~~  
10 ~~under IC 35-50-2; or~~  
11 ~~(2) the maximum term of imprisonment prescribed for a~~  
12 ~~misdemeanor under IC 35-50-3;~~  
13 for the crime committed by the offender.  
14 (c) The court may order supervision of an offender's home detention  
15 to be provided by the probation department for the court or by a  
16 community corrections program that provides supervision of home  
17 detention.

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

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

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

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

14 SECTION 2. IC 35-38-2.6-1, AS AMENDED BY P.L.65-2016,  
15 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 UPON PASSAGE]: Sec. 1. ~~(a) Except as provided in subsection (b);~~  
17 ~~this chapter applies to the sentencing of a person convicted of a felony~~  
18 ~~whenever any part of the sentence may not be suspended under~~  
19 ~~IC 35-50-2-2.1 or IC 35-50-2-2.2.~~

20 ~~(b)~~ This chapter does not apply to persons convicted of any of the  
21 following:

22 (1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.

23 **(2) A Level 1 felony.**

24 ~~(2)~~ **(3)** Any of the following felonies:

25 (A) Murder (IC 35-42-1-1).

26 (B) A battery offense included in IC 35-42-2 with a deadly  
27 weapon or causing death.

28 (C) Kidnapping (IC 35-42-3-2).

29 (D) Criminal confinement (IC 35-42-3-3) with a deadly  
30 weapon.

31 (E) Robbery (IC 35-42-5-1) resulting in serious bodily injury  
32 or with a deadly weapon.

33 (F) Arson (IC 35-43-1-1) for hire resulting in serious bodily  
34 injury.

35 (G) Burglary (IC 35-43-2-1) resulting in serious bodily injury.

36 (H) Resisting law enforcement (IC 35-44.1-3-1) with a deadly  
37 weapon.

38 (I) Escape (IC 35-44.1-3-4) with a deadly weapon.

39 (J) Rioting (IC 35-45-1-2) with a deadly weapon.

40 (K) Aggravated battery (IC 35-42-2-1.5).

41 (L) Disarming a law enforcement officer (IC 35-44.1-3-2).

42 ~~(3)~~ **An offense under IC 9-30-5-4.**



1 (4) ~~An offense under IC 9-30-5-5.~~ **A sentence for a crime that is**  
 2 **enhanced by the any of the following:**

3 **(A) Habitual offender (IC 35-50-2-8) or habitual vehicular**  
 4 **substance offender (IC 9-30-15.5).**

5 **(B) Use of a firearm in the commission of a crime under:**

6 **(i) IC 35-50-2-11; or**

7 **(ii) IC 35-50-2-13.**

8 **(C) Criminal organization (IC 35-50-2-15).**

9 **(D) Causing termination of a human pregnancy**  
 10 **(IC 35-50-2-16).**

11 SECTION 3. IC 35-38-2.6-2, AS AMENDED BY P.L.45-2022,  
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 UPON PASSAGE]: Sec. 2. As used in this chapter, "community  
 14 corrections program" means a program consisting of residential  
 15 centers, ~~and~~ work release, **home detention**, or electronic monitoring  
 16 that is:

17 (1) operated under a community corrections plan of a county and  
 18 funded at least in part by the state subsidy provided under  
 19 IC 11-12-2; or

20 (2) operated by or under contract with a court or county.

21 SECTION 4. IC 35-38-2.6-3, AS AMENDED BY P.L.45-2022,  
 22 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 UPON PASSAGE]: Sec. 3. (a) The court may, at the time of  
 24 sentencing, ~~suspend any portion of the sentence and~~ order a person to  
 25 be placed in a community corrections program as an alternative to  
 26 commitment to the **county jail or the** department of correction, ~~for the~~  
 27 **including any** part of the sentence which must be executed under  
 28 IC 35-50-2-2.1 or ~~IC 35-50-2-2.2.~~ **IC 35-50-2-2.2(b).** The court may  
 29 impose reasonable terms on the placement or require the director of the  
 30 community corrections program to impose reasonable terms on the  
 31 placement. A court shall require a person:

32 (1) who is described in IC 10-13-6-10(a);

33 (2) who has not previously provided a DNA sample in accordance  
 34 with IC 10-13-6; and

35 (3) whose sentence does not involve a commitment to the  
 36 department of correction;

37 to provide a DNA sample as a term of placement.

38 (b) Placement in a community corrections program under this  
 39 chapter is subject to the availability of residential beds or electronic  
 40 monitoring units in a community corrections program. However, this  
 41 subsection does not prohibit placement on home detention without  
 42 electronic monitoring.



1 (c) A person placed under this chapter is responsible for the person's  
2 own medical care while in the placement program.

3 (d) The community corrections program shall have access to and use  
4 an offender's written presentence report or memorandum from a county  
5 probation agency, if applicable, when determining the offender's  
6 eligibility for placement.

7 SECTION 5. IC 35-38-2.6-4 IS REPEALED [EFFECTIVE UPON  
8 PASSAGE]. ~~Sec. 4. If the court places a person in a community  
9 corrections program under this chapter, the court shall suspend the  
10 sentence for a fixed period to end not later than the date the suspended  
11 sentence expires.~~

12 SECTION 6. IC 35-38-2.6-6, AS AMENDED BY P.L.45-2022,  
13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 UPON PASSAGE]: Sec. 6. (a) As used in this section, "home" means  
15 the actual living area of the temporary or permanent residence of a  
16 person.

17 (b) A person confined on **work release or** home detention in a  
18 community corrections program receives one (1) day of accrued time  
19 for each day the person is confined on **work release or** home  
20 detention. ~~plus any earned good time credit.~~

21 (c) In addition to accrued time under subsection (b), a person who  
22 is placed on a level of supervision as part of a community corrections  
23 program under this chapter is entitled to earn good time credit under  
24 IC 35-50-6-3 and IC 35-50-6-3.1. A person placed on a level of  
25 supervision as part of a community corrections program may not earn  
26 educational credit under IC 35-50-6-3.3.

27 (d) The department of correction shall adopt rules under IC 4-22-2,  
28 and may adopt emergency rules under IC 4-22-2-37.1, concerning the  
29 deprivation of earned good time credit for a person who is placed on a  
30 level of supervision as part of a community corrections program under  
31 this chapter.

32 (e) A person who is placed on a level of supervision as part of a  
33 community corrections program under this chapter may be deprived of  
34 earned good time credit as provided under rules adopted by the  
35 department of correction under IC 4-22-2, including IC 4-22-2-37.1.

36 SECTION 7. IC 35-44.1-3-4, AS AMENDED BY P.L.84-2022,  
37 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2023]: Sec. 4. (a) This section does not apply to a child who:

- 39 (1) flees from lawful detention (as defined in IC 35-31.5-2-186)  
40 where the child has been placed;  
41 (2) violates a home detention order imposed on the child;  
42 (3) removes, disables, or interferes with the operation of an



1 electronic monitoring device or GPS tracking device that the child  
2 is required to wear; or

3 (4) fails to return to lawful detention following temporary leave  
4 granted for a specified purpose or limited period;

5 due to an allegation or adjudication that the child committed an act  
6 described in IC 31-37-2-3 through IC 31-37-2-7 (status offenses),  
7 unless the child, while committing the offense, draws or uses a deadly  
8 weapon or inflicts bodily injury on another person.

9 (b) A person, except as provided in subsection (c), who intentionally  
10 flees from lawful detention commits escape, a Level 5 felony.  
11 However, the offense is a Level 4 felony if, while committing it, the  
12 person draws or uses a deadly weapon or inflicts bodily injury on  
13 another person.

14 (c) A person who:

15 (1) knowingly or intentionally violates a home detention order **or,**  
16 **for a person in a community corrections program, a home**  
17 **detention placement term,** except for a provision of a home  
18 detention order **or placement term** relating to:

19 (A) the possession or consumption of alcohol or a controlled  
20 substance in the person's home;

21 (B) tardiness to or missed appointments with supervising staff;  
22 or

23 (C) the failure to pay user fees; or

24 (2) intentionally removes, disables, or interferes with the  
25 operation of an electronic monitoring device or GPS tracking  
26 device;

27 commits escape, a Level 6 felony.

28 (d) A person who knowingly or intentionally fails to return to lawful  
29 detention following temporary leave granted for a specified purpose or  
30 limited period commits failure to return to lawful detention, a Level 6  
31 felony. However, the offense is a Level 5 felony if, while committing  
32 it, the person draws or uses a deadly weapon or inflicts bodily injury on  
33 another person.

34 SECTION 8. **An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 179, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 7. IC 35-44.1-3-4, AS AMENDED BY P.L.84-2022, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) This section does not apply to a child who:

- (1) flees from lawful detention (as defined in IC 35-31.5-2-186) where the child has been placed;
- (2) violates a home detention order imposed on the child;
- (3) removes, disables, or interferes with the operation of an electronic monitoring device or GPS tracking device that the child is required to wear; or
- (4) fails to return to lawful detention following temporary leave granted for a specified purpose or limited period;

due to an allegation or adjudication that the child committed an act described in IC 31-37-2-3 through IC 31-37-2-7 (status offenses), unless the child, while committing the offense, draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person, except as provided in subsection (c), who intentionally flees from lawful detention commits escape, a Level 5 felony. However, the offense is a Level 4 felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(c) A person who:

- (1) knowingly or intentionally violates a home detention order **or, for a person in a community corrections program, a home detention placement term**, except for a provision of a home detention order **or placement term** relating to:
  - (A) the possession or consumption of alcohol or a controlled substance in the person's home;
  - (B) tardiness to or missed appointments with supervising staff; or
  - (C) the failure to pay user fees; or
- (2) intentionally removes, disables, or interferes with the operation of an electronic monitoring device or GPS tracking device;

commits escape, a Level 6 felony.

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(d) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Level 6 felony. However, the offense is a Level 5 felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 179 as introduced.)

FREEMAN, Chairperson

Committee Vote: Yeas 7, Nays 0.

