

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE ENROLLED ACT No. 258

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 35-38-2-2.2, AS AMENDED BY P.L.114-2012, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2.2. (a) As a condition of probation for a sex offender (as defined in IC 11-8-8-4.5), the court shall:

- (1) require the sex offender to register with the local law enforcement authority under IC 11-8-8;
- (2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-31.5-2-285), as measured from the property line of the sex offender's residence to the property line of the school property, for the period of probation, unless the sex offender obtains written approval from the court;
- (3) require the sex offender to consent:
 - (A) to the search of the sex offender's personal computer at any time; and
 - (B) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and
- (4) prohibit the sex offender from:
 - (A) accessing or using certain web sites, chat rooms, or instant

SEA 258 — CC 1



messaging programs frequented by children; and
 (B) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by clause (A).

If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order. However, a court may not allow a sex offender who is a sexually violent predator (as defined in IC 35-38-1-7.5) or an offender against children under IC 35-42-4-11 to reside within one thousand (1,000) feet of school property.

(b) As a condition of probation for a sex offender who is a sexually violent predator under IC 35-38-1-7.5 or an offender against children under IC 35-42-4-11, the court may:

(1) subject to subdivision (2), prohibit the sex offender from having any:

(A) unsupervised contact; or

(B) contact;

with a person less than sixteen (16) years of age; and

(2) if the court finds it is in the best interests of the child, prohibit the sex offender from having any:

(A) unsupervised contact; or

(B) contact;

with a child or stepchild of the sex offender, if the child or stepchild is less than sixteen (16) years of age.

SECTION 2. IC 35-38-2-2.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 2.9. As a condition of probation, the court shall inform an offender against children (as described in IC 35-42-4-11) of the residency restrictions described in IC 35-42-4-11(c)(1).**

SECTION 3. IC 35-42-4-10, AS AMENDED BY P.L.158-2013, SECTION 446, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 10. (a) As used in this section, "offender against children" means a person who is an offender against children under IC 35-42-4-11.**

(b) As used in this section, "sexually violent predator" means a person who is a sexually violent predator under IC 35-38-1-7.5.

(c) A sexually violent predator or an offender against children who knowingly or intentionally works for compensation or as a volunteer:

(1) on school property;

(2) at a youth program center; or

(3) at a public park;



- (4) as a child care provider (as defined by IC 31-33-26-1);**
- (5) for a child care provider (as defined by IC 31-33-26-1); or**
- (6) as a provider of:**
 - (A) respite care services and other support services for primary or family caregivers; or**
 - (B) adult day care services;**

commits unlawful employment ~~near children~~ by a sexual predator, a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under IC 11-8-8.

SECTION 4. IC 35-42-4-11, AS AMENDED BY P.L.13-2016, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. (a) As used in this section, and except as provided in subsection (d), "offender against children" means a person required to register as a sex or violent offender under IC 11-8-8 who has been:

- (1) found to be a sexually violent predator under IC 35-38-1-7.5; or
- (2) convicted of one (1) or more of the following offenses:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
 - (C) Child solicitation (IC 35-42-4-6).
 - (D) Child seduction (IC 35-42-4-7).
 - (E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person is not the child's parent or guardian.
 - (F) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).
 - (G) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (F).

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

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

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

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

- (1) resides within one thousand (1,000) feet of:
 - (A) school property, not including property of an institution



providing post-secondary education;

(B) a youth program center; ~~or~~

(C) a public park; or

(D) A day care center licensed under IC 12-17.2;

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense; ~~or~~

(3) resides in a residence where a child care provider (as defined by IC 31-33-26-1) provides child care services;

commits a sex offender residency offense, a Level 6 felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration or parole, whichever occurs last (or, if the person is not incarcerated, not earlier than ten (10) years after the person is released from probation). A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered an offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

