

SENATE BILL No. 487

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-10.

Synopsis: Preventing pregnancy in prison. Provides that the department of correction shall assign an offender, including a delinquent offender, to a facility or program that is based on the offender's biological sex at birth in accordance with the offender's genetics and reproductive biology.

Effective: July 1, 2023.

Donato

January 19, 2023, read first time and referred to Committee on Health and Provider Services.



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. 487

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-10-1-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) Upon completion
3 of the evaluation prescribed in section 2 of this chapter and before
4 assigning **him an offender** to a facility or program, the department
5 shall determine the appropriate degree of security (maximum, medium,
6 or minimum) for each offender as described in IC 35-38-3-6. In making
7 that determination the department shall, in addition to other relevant
8 information, consider:
9 (1) the results of the evaluation prescribed in section 2 of this
10 chapter;
11 (2) the recommendations of the sentencing court; and
12 (3) the degree and kind of custodial control necessary for the
13 protection of the public, staff, other confined persons, and the
14 individual being considered.
15 (b) After determining the offender's security classification, the
16 department shall assign **him the offender** to a facility or program;
17 make an initial employment, education, training, or other assignment



1 within that facility or program; and order medical, psychiatric,
 2 psychological, or other services. In making the assignment, the
 3 department shall, in addition to other relevant information, consider:

- 4 (1) the results of the evaluation prescribed in section 2 of this
 5 chapter;
 6 (2) the offender's security classification;
 7 (3) the offender's need for special therapy or programs, including
 8 employment, education, or training available only in specific
 9 facilities or programs;
 10 (4) the likelihood of the offender's reintegration into the
 11 community in which the facility or program is located;
 12 (5) the desirability of keeping the offender in a facility or program
 13 near the area in which ~~he~~ **the offender** resided before
 14 commitment;
 15 (6) the desires of the offender;
 16 (7) the current population levels of the facilities or programs
 17 considered appropriate for the offender; and
 18 (8) the length of the offender's sentence.

19 (c) If the department determines that a committed offender is
 20 mentally or physically incapacitated to such an extent that proper
 21 custody, care, and control cannot be provided by the department, it
 22 shall make arrangements for placement outside the department.

23 (d) Before assigning an offender to a facility or program, the
 24 department shall give ~~him~~ **the offender** an opportunity to present
 25 pertinent information; discuss with ~~him~~ **the offender** all aspects of the
 26 evaluation, classification, and assignment process; and work with ~~him~~
 27 **the offender** to determine a fair and appropriate assignment.

28 **(e) The department shall assign an offender to a facility or**
 29 **program that is based on the offender's biological sex at birth in**
 30 **accordance with the offender's genetics and reproductive biology.**

31 ~~(f)~~ **(f)** If an offender is sentenced to a term of imprisonment of one
 32 (1) year or less, the department may make an assignment under this
 33 section without making the evaluation prescribed in section 2 of this
 34 chapter. In determining the length of an offender's term, consecutive
 35 terms of imprisonment shall be added together.

36 ~~(g)~~ **(g)** This section does not prohibit the temporary assignment of
 37 an offender pending evaluation and classification.

38 SECTION 2. IC 11-10-2-5 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) Upon completion
 40 of the evaluation prescribed in section 4 of this chapter, the department
 41 shall assign the offender to a facility or program; make an initial
 42 education, training, employment, or other assignment within that



1 facility or program; and order medical, psychiatric, psychological, or
 2 other services it considers appropriate. In making the assignment, the
 3 department shall, among other relevant information, consider:

4 (1) the results of the evaluation prescribed in section 4 of this
 5 chapter;

6 (2) the recommendations of the committing court;

7 (3) the offender's need for special therapy or programs, including
 8 education, training, or employment available only in specific
 9 facilities or programs;

10 (4) the degree and type of custodial control necessary for the
 11 protection of the public, staff, other committed offenders, and the
 12 individual being considered;

13 (5) the likelihood of the offender's reintegration into the
 14 community in which the facility or program is located;

15 (6) the desirability of keeping the offender in a facility or program
 16 near the area in which ~~he~~ **the offender** resided before
 17 commitment;

18 (7) the desires of the offender and ~~his~~ **the offender's** parents,
 19 guardian, or custodian;

20 (8) the current population levels of the facilities or programs
 21 considered appropriate for the offender; and

22 (9) the probable length of commitment.

23 (b) If the department determines that a committed offender is
 24 mentally or physically incapacitated to such an extent that proper
 25 custody, care, and control cannot be provided by the department, it
 26 shall make arrangements for placement outside the department.

27 (c) If an offender is found to be pregnant, the department may return
 28 her to the committing court for further disposition.

29 (d) Before assigning an offender to a facility or program, the
 30 department shall give ~~him~~ **the offender** an opportunity to present
 31 pertinent information, discuss with ~~him~~ **the offender** all aspects of the
 32 evaluation and assignment process, and work with ~~him~~ **the offender** to
 33 determine a fair and appropriate assignment.

34 **(e) The department shall assign an offender to a facility or**
 35 **program that is based on the offender's biological sex at birth in**
 36 **accordance with the offender's genetics and reproductive biology.**

37 ~~(f)~~ **(f)** The department shall, by certified mail, return receipt
 38 requested, notify the parent, guardian, custodian, or nearest relative of
 39 any committed offender of ~~his~~ **the offender's** physical location and any
 40 change in that location.

41 ~~(g)~~ **(g)** This section does not preclude the temporary assignment of
 42 an offender pending evaluation.

