

# HOUSE BILL No. 1204

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-8-8; IC 35-38-8-1.

**Synopsis:** Sex offender registry. Provides that certain sex offenders who are no longer required to register are not entitled to have their information (other than their addresses) purged from the registry. Specifies that persons who were previously required to register as sex offenders (as well as current sex offenders) are generally not permitted to restrict access to their conviction records.

**Effective:** July 1, 2012.

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January 9, 2012, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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# HOUSE BILL No. 1204



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 11-8-8-22, AS AMENDED BY P.L.103-2010,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2012]: Sec. 22. (a) As used in this section, "offender" means  
4 a sex offender (as defined in section 4.5 of this chapter), ~~and~~ a sex or  
5 violent offender (as defined in section 5 of this chapter), **and a**  
6 **sexually violent predator (as defined in section 6 of this chapter).**  
7 (b) Subsection (g) applies to an offender required to register under  
8 this chapter if, due to a change in federal or state law after June 30,  
9 2007, an individual who engaged in the same conduct as the offender:  
10 (1) would not be required to register under this chapter; or  
11 (2) would be required to register under this chapter but under less  
12 restrictive conditions than the offender is required to meet.  
13 (c) A person to whom this section applies may petition a court to:  
14 (1) remove the person's designation as an offender; or  
15 (2) require the person to register under less restrictive conditions.  
16 (d) A petition under this section shall be filed in the circuit or  
17 superior court of the county in which the offender resides. If the



1 offender resides in more than one (1) county, the petition shall be filed  
 2 in the circuit or superior court of the county in which the offender  
 3 resides the greatest time. If the offender does not reside in Indiana, the  
 4 petition shall be filed in the circuit or superior court of the county  
 5 where the offender is employed the greatest time. If the offender does  
 6 not reside or work in Indiana, but is a student in Indiana, the petition  
 7 shall be filed in the circuit or superior court of the county where the  
 8 offender is a student. If the offender is not a student in Indiana and does  
 9 not reside or work in Indiana, the petition shall be filed in the county  
 10 where the offender was most recently convicted of a crime listed in  
 11 section 5 of this chapter.

12 (e) After receiving a petition under this section, the court may:

13 (1) summarily dismiss the petition; or

14 (2) give notice to:

15 (A) the department;

16 (B) the attorney general;

17 (C) the prosecuting attorney of:

18 (i) the county where the petition was filed;

19 (ii) the county where offender was most recently convicted  
 20 of an offense listed in section 5 of this chapter; and

21 (iii) the county where the offender resides; and

22 (D) the sheriff of the county where the offender resides;

23 and set the matter for hearing. The date set for a hearing must not be  
 24 less than sixty (60) days after the court gives notice under this  
 25 subsection.

26 (f) If a court sets a matter for a hearing under this section, the  
 27 prosecuting attorney of the county in which the action is pending shall  
 28 appear and respond, unless the prosecuting attorney requests the  
 29 attorney general to appear and respond and the attorney general agrees  
 30 to represent the interests of the state in the matter. If the attorney  
 31 general agrees to appear, the attorney general shall give notice to:

32 (A) the prosecuting attorney; and

33 (B) the court.

34 (g) A court may grant a petition under this section if, following a  
 35 hearing, the court makes the following findings:

36 (1) The law requiring the petitioner to register as an offender has  
 37 changed since the date on which the petitioner was initially  
 38 required to register.

39 (2) If the petitioner who was required to register as an offender  
 40 before the change in law engaged in the same conduct after the  
 41 change in law occurred, the petitioner would:

42 (A) not be required to register as an offender; or

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1 (B) be required to register as an offender, but under less  
2 restrictive conditions.

3 (3) If the petitioner seeks relief under this section because a  
4 change in law makes a previously unavailable defense available  
5 to the petitioner, that the petitioner has proved the defense.

6 The court has the discretion to deny a petition under this section, even  
7 if the court makes the findings under this subsection.

8 (h) The petitioner has the burden of proof in a hearing under this  
9 section.

10 (i) If the court grants a petition under this section, the court shall  
11 notify:

- 12 (1) the victim of the offense, if applicable;  
13 (2) the department of correction; and  
14 (3) the local law enforcement authority of every county in which  
15 the petitioner is currently required to register.

16 (j) An offender may base a petition filed under this section on a  
17 claim that the application or registration requirements constitute ex  
18 post facto punishment.

19 (k) A petition filed under this section must:

- 20 (1) be submitted under the penalties of perjury;  
21 (2) list each of the offender's criminal convictions and state for  
22 each conviction:  
23 (A) the date of the judgment of conviction;  
24 (B) the court that entered the judgment of conviction;  
25 (C) the crime that the offender pled guilty to or was convicted  
26 of; and  
27 (D) whether the offender was convicted of the crime in a trial  
28 or pled guilty to the criminal charges; and

29 (3) list each jurisdiction in which the offender is required to  
30 register as a sex offender or a violent offender.

31 **(l) If a court grants a petition filed under this section, the  
32 offender is entitled only to the relief described in section 23 of this  
33 chapter.**

34 (†) (m) The attorney general may initiate an appeal from any order  
35 granting an offender relief under this section.

36 SECTION 2. IC 11-8-8-23 IS ADDED TO THE INDIANA CODE  
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
38 1, 2012]: **Sec. 23. (a) As used in this section, "offender" has the  
39 meaning set forth in section 22(a) of this chapter.**

40 **(b) If:**

41 **(1) a court grants an offender's petition filed under section 22  
42 of this chapter;**

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1           (2) an offender's duty to register expires due to the passage of  
 2           time; or  
 3           (3) an offender's duty to register under section 7(a) of this  
 4           chapter has ended due to a change in the offender's place of  
 5           residence, employment, vocation, or educational enrollment;  
 6           the offender is no longer required to register or update the  
 7           offender's registration under this chapter.  
 8           (c) Except as provided in subsection (d), an offender described  
 9           in subsection (b) is not entitled to have any information changed or  
 10          removed from the Indiana sex offender registry.  
 11          (d) An offender described in subsection (b) is entitled to have the  
 12          offender's address removed from the part of the Indiana sex  
 13          offender registry that is available to the public. However, the  
 14          offender's address shall remain available to the department and to  
 15          law enforcement authorities.  
 16          (e) If an offender's address is removed from the publicly  
 17          available part of the Indiana sex offender registry, the publicly  
 18          available record shall prominently display the last date as of which  
 19          the information is current and the offender's age at that time.  
 20          SECTION 3. IC 35-38-8-1, AS ADDED BY P.L.194-2011,  
 21          SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22          JULY 1, 2012]: Sec. 1. This chapter does not apply to a sex or violent  
 23          offender, **including a sex or violent offender who is no longer**  
 24          **required to register**, unless the offender's status as a sex or violent  
 25          offender is solely due to the offender's conviction for sexual  
 26          misconduct with a minor (IC 35-42-4-9) and the offender proves that  
 27          the defense described in IC 35-42-4-9(e) applies to the offender.

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