

PROPOSED AMENDMENT

SB 9 # 11

DIGEST

Vulnerable victims. Defines "vulnerable victim" and specifies the duties of: (1) a monitor for tracked individuals at different risk levels; (2) a supervising agency in the case of a violation; and (3) local law enforcement. Specifies response times. Removes provisions concerning automatic revocation. Requires a monitor to transmit a quarterly report to JRAC and provides civil immunity under certain circumstances.

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:

3 "SECTION 1. IC 31-37-2-8 IS ADDED TO THE INDIANA CODE
4 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2022]: **Sec. 8. A child commits a delinquent act if, before
6 becoming eighteen (18) years of age, the child:**

7 **(1) intentionally flees from lawful detention (as defined in
8 IC 35-31.5-2-186) where the child has been placed;**

9 **(2) knowingly or intentionally violates a home detention order
10 imposed on the child;**

11 **(3) intentionally removes, disables, or interferes with the
12 operation of an electronic monitoring device or GPS tracking
13 device that the child is required to wear; or**

14 **(4) knowingly or intentionally fails to return to lawful
15 detention following temporary leave granted for a specified
16 purpose or limited period;**

17 **due to an allegation or adjudication that the child committed an act
18 described in this chapter.**

19 SECTION 2. IC 34-30-2-149.7 IS ADDED TO THE INDIANA
20 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2022]: **Sec. 149.7. IC 35-38-2.7 (Concerning
22 electronic monitoring standards).**

23 SECTION 3. IC 35-31.5-2-204.7 IS ADDED TO THE INDIANA
24 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2022]: **Sec. 204.7. "Monitor", for purposes**

1 **of IC 35-38-2.7, has the meaning set forth in IC 35-38-2.7-1."**

2 Page 1, between lines 5 and 6, begin a new paragraph and insert:

3 "SECTION 4. IC 35-31.5-2-318.5 IS ADDED TO THE INDIANA
4 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
5 [EFFECTIVE JULY 1, 2022]: **Sec. 318.5. "Supervising agency", for**
6 **purposes of IC 35-38-2.7, has the meaning set forth in**
7 **IC 35-38-2.7-1.**

8 SECTION 5. IC 35-31.5-2-337.3 IS ADDED TO THE INDIANA
9 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
10 [EFFECTIVE JULY 1, 2022]: **Sec. 337.3. "Tracked individual", for**
11 **purposes of IC 35-38-2.7, has the meaning set forth in**
12 **IC 35-38-2.7-1.**

13 SECTION 6. IC 35-31.5-2-352.5 IS ADDED TO THE INDIANA
14 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
15 [EFFECTIVE JULY 1, 2022]: **Sec. 352.5. "Vulnerable victim", for**
16 **purposes of IC 35-38-2.7, has the meaning set forth in**
17 **IC 35-38-2.7-1."**

18 Page 1, delete lines 6 through 17.

19 Delete page 2.

20 Page 3, delete lines 1 through 5.

21 Page 4, between lines 25 and 26, begin a new line block indented
22 and insert:

23 **"(5) "Vulnerable victim" means the victim of a crime**
24 **committed or alleged to have been committed by a tracked**
25 **individual:**

26 **(A) under circumstances suggesting that the tracked**
27 **individual may disturb, harass, or harm the victim, as**
28 **determined by a court or the supervising agency;**

29 **(B) if the tracked individual is the subject of a protection**
30 **order, restraining order, or no contact order with respect**
31 **to the victim; or**

32 **(C) that is a crime of domestic or sexual violence (as**
33 **defined in IC 16-18-2-88.5)."**

34 Page 4, delete lines 26 through 42, begin a new paragraph and
35 insert:

36 **"Sec. 2. A monitor must do the following:**

37 **(1) Provide notification to the supervising agency as soon as**
38 **possible, but not later than fifteen (15) minutes, after:**

39 **(A) the monitoring device of a tracked individual suffers an**
40 **unexplained or undocumented loss of communication with**

- 1 **the monitor;**
 2 **(B) a tracked individual enters a prohibited exclusion zone;**
 3 **or**
 4 **(C) a tracked individual removes, disables, or otherwise**
 5 **interferes with a monitoring device.**

6 **In addition, if the tracked individual has committed or is**
 7 **alleged to have committed a crime against a vulnerable**
 8 **victim, the monitor shall notify the vulnerable victim and**
 9 **request local law enforcement to conduct a welfare check on**
 10 **the vulnerable victim in accordance with the protocol**
 11 **developed by the supervising agency under section 3 of this**
 12 **chapter.**

- 13 **(2) Employ at least one (1) employee per:**
 14 **(A) thirty (30) tracked individuals placed on electronic**
 15 **monitoring due to being charged with or convicted of:**
 16 **(i) a crime of violence (as defined in IC 35-50-1-2(a)); or**
 17 **(ii) a crime of domestic or sexual violence (as defined in**
 18 **IC 16-18-2-88.5); or**
 19 **(B) seventy-five (75) tracked individuals placed on**
 20 **electronic monitoring who are not charged with or**
 21 **convicted of:**
 22 **(i) a crime of violence (as defined in IC 35-50-1-2(a)); or**
 23 **(ii) a crime of domestic or sexual violence (as defined in**
 24 **IC 16-18-2-88.5).**

25 **(3) Verify in person the location of each tracked individual**
 26 **placed on electronic monitoring due to being charged with or**
 27 **convicted of:**

- 28 **(A) a crime of violence (as defined in IC 35-50-1-2(a)); or**
 29 **(B) a crime of domestic or sexual violence (as defined in**
 30 **IC 16-18-2-88.5);**

31 **by making one (1) scheduled in person contact and one (1)**
 32 **unannounced in person contact with the individual in every**
 33 **thirty (30) day period.**

34 **(4) Transmit a quarterly report to the local justice**
 35 **reinvestment advisory council (established by IC 33-38-9.5-4)**
 36 **that includes information concerning:**

- 37 **(A) the total number of persons under supervision,**
 38 **whether they are under pretrial or post-disposition**
 39 **supervision, and the charges they are facing or have been**
 40 **convicted of;**

- 1 **(B) the number of persons under supervision assigned to**
 2 **each employee;**
 3 **(C) the total costs and fees levied and collected;**
 4 **(D) the number of persons under supervision whose**
 5 **supervision has been terminated and the reason for**
 6 **termination;**
 7 **(E) the number of false location alerts or device**
 8 **malfunctions in the case of each person under supervision.**
 9 **The report must be submitted not later than fifteen (15)**
 10 **calendar days after the close of each quarter. The local justice**
 11 **reinvestment advisory council shall transmit each report**
 12 **electronically to the statewide justice reinvestment advisory**
 13 **council (established by IC 33-38-9.5-2), which shall publish**
 14 **the reports quarterly."**

15 Page 5, line 8, after "agency," insert "**vulnerable**".

16 Page 5, delete lines 27 through 42, begin a new paragraph and
 17 insert:

- 18 **"Sec. 5. (a) The supervising agency shall:**
 19 **(1) inform a vulnerable victim of where the tracked individual**
 20 **is not permitted to be;**
 21 **(2) if the vulnerable victim wishes to be informed if the**
 22 **tracked individual commits a violation as described in section**
 23 **2(1)(A) through 2(1)(C) of this chapter, obtain the best**
 24 **manner of contacting the vulnerable victim from the**
 25 **vulnerable victim and provide this information to the**
 26 **monitor; and**
 27 **(3) advise the vulnerable victim that events such as power**
 28 **outages, Internet outages, and natural disasters may interfere**
 29 **with the ability of the monitor to notify the vulnerable victim**
 30 **in a timely manner.**

31 **(b) Upon notice from a monitor of a possible violation by a**
 32 **tracked individual as described in section 2(1)(A) through 2(1)(C)**
 33 **of this chapter, the supervising agency shall, as soon as practicable,**
 34 **seek a warrant for the arrest of the tracked individual.**

35 **Sec. 6. (a) This subsection applies to a tracked individual who is**
 36 **charged with or convicted of a crime of violence (as defined in**
 37 **IC 35-50-1-2(a)) or a crime of domestic or sexual violence (as**
 38 **defined in IC 16-18-2-88.5). As soon as possible, but not later than:**

- 39 **(1) fifteen (15) minutes after a warrant has been issued for a**
 40 **tracked individual to whom this subsection applies, a local law**

1 enforcement agency shall transmit details of the warrant to all
2 active units; and

3 (2) sixty (60) minutes after a warrant has been issued for a
4 tracked individual to whom this subsection applies, a local law
5 enforcement agency shall dispatch a law enforcement officer
6 to apprehend the tracked individual.

7 (b) This subsection applies to a tracked individual who is not
8 charged with or convicted of a crime of violence (as defined in
9 IC 35-50-1-2(a)) or a crime of domestic or sexual violence (as
10 defined in IC 16-18-2-88.5). As soon as possible, but not later than:

11 (1) sixty (60) minutes after a warrant has been issued for a
12 tracked individual to whom this subsection applies, a local law
13 enforcement agency shall transmit details of the warrant to all
14 active units; and

15 (2) forty-eight (48) hours after a warrant has been issued for
16 a tracked individual to whom this subsection applies, a local
17 law enforcement agency shall dispatch a law enforcement
18 officer to apprehend the tracked individual.

19 (c) The local law enforcement agency shall keep a record of each
20 dispatch made under this section."

21 Page 6, delete line 1.

22 Page 6, between lines 20 and 21, begin a new paragraph and insert:

23 "Sec. 8. (a) Except as described in subsection (b), the following
24 are immune from civil liability for an act or omission that occurs
25 in connection with the implementation of this chapter:

26 (1) A monitor.

27 (2) A supervising agency.

28 (3) A law enforcement agency.

29 (4) An employee of a person described in subdivisions (1)
30 through (3).

31 (b) The immunity described in subsection (a) does not apply if
32 the person committed gross negligence or willful or wanton
33 misconduct."

34 Page 6, delete lines 21 through 37, begin a new paragraph and
35 insert:

36 "SECTION 11. IC 35-44.1-3-4, AS AMENDED BY P.L.158-2013,
37 SECTION 511, IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) This section does not apply
39 to a child who:

40 (1) flees from lawful detention (as defined in IC 35-31.5-2-186)

1 **where the child has been placed;**
 2 **(2) violates a home detention order imposed on the child;**
 3 **(3) removes, disables, or interferes with the operation of an**
 4 **electronic monitoring device or GPS tracking device that the**
 5 **child is required to wear; or**
 6 **(4) fails to return to lawful detention following temporary**
 7 **leave granted for a specified purpose or limited period;**
 8 **due to an allegation or adjudication that the child committed an act**
 9 **described in IC 31-37-2-3 through IC 31-37-2-7 (status offenses),**
 10 **unless the child, while committing the offense, draws or uses a**
 11 **deadly weapon or inflicts bodily injury on another person.**

12 **(b)** A person, except as provided in ~~subsection (b)~~, **subsection (c)**,
 13 who intentionally flees from lawful detention commits escape, a Level
 14 5 felony. However, the offense is a Level 4 felony if, while committing
 15 it, the person draws or uses a deadly weapon or inflicts bodily injury on
 16 another person.

17 ~~(b)~~ **(c)** A person who:
 18 **(1)** knowingly or intentionally violates a home detention order; or
 19 **(2)** intentionally removes, **disables, or interferes with the**
 20 **operation of** an electronic monitoring device or GPS tracking
 21 device;
 22 commits escape, a Level 6 felony.

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

29 Renumber all SECTIONS consecutively.
 (Reference is to SB 9 as introduced.)