



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1198 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 11-8-8-4.5, AS AMENDED BY P.L.142-2020,
4 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2021]: Sec. 4.5. (a) Except as provided in section 22 of this
6 chapter, as used in this chapter, "sex offender" means a person
7 convicted of any of the following offenses:
8 (1) Rape (IC 35-42-4-1).
9 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
10 (3) Child molesting (IC 35-42-4-3).
11 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
12 (5) Vicarious sexual gratification (including performing sexual
13 conduct in the presence of a minor) (IC 35-42-4-5).
14 (6) Child solicitation (IC 35-42-4-6).
15 (7) Child seduction (IC 35-42-4-7).
16 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
17 Class B, or Class C felony (for a crime committed before July 1,
18 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
19 crime committed after June 30, 2014), unless:
20 (A) the person is convicted of sexual misconduct with a minor
21 as a Class C felony (for a crime committed before July 1,
22 2014) or a Level 5 felony (for a crime committed after June
23 30, 2014);
24 (B) the person is not more than:
25 (i) four (4) years older than the victim if the offense was
26 committed after June 30, 2007; or
27 (ii) five (5) years older than the victim if the offense was

- 1 committed before July 1, 2007; and
 2 (C) the sentencing court finds that the person should not be
 3 required to register as a sex offender.
- 4 (9) Incest (IC 35-46-1-3).
 5 (10) Sexual battery (IC 35-42-4-8).
 6 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 7 (18) years of age, and the person who kidnapped the victim is not
 8 the victim's parent or guardian.
 9 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 10 than eighteen (18) years of age, and the person who confined or
 11 removed the victim is not the victim's parent or guardian.
 12 (13) Possession of child pornography (IC 35-42-4-4(d) or
 13 IC 35-42-4-4(e)).
 14 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
 15 (for a crime committed before July 1, 2014) or a Level 4 felony
 16 (for a crime committed after June 30, 2014).
 17 (15) Promotion of human sexual trafficking under
 18 IC 35-42-3.5-1.1.
 19 (16) Promotion of child sexual trafficking under
 20 IC 35-42-3.5-1.2(a).
 21 (17) Promotion of sexual trafficking of a younger child (IC
 22 35-42-3.5-1.2(c)).
 23 (18) Child sexual trafficking (IC 35-42-3.5-1.3).
 24 (19) Human trafficking under IC 35-42-3.5-1.4 if the victim is
 25 less than eighteen (18) years of age.
 26 (20) Sexual misconduct by a service provider with a detained or
 27 supervised child (IC 35-44.1-3-10(c)).
- 28 (b) The term includes:
 29 (1) a person who is required to register as a sex offender in any
 30 jurisdiction; and
 31 (2) a child who has committed a delinquent act, **or a person**
 32 **prosecuted under IC 31-30-1-4(d) for child molesting**
 33 **committed when the person was less than eighteen (18) years**
 34 **of age, but who was at least twenty-one (21) years of age when**
 35 **the charge was filed**, and who:
 36 (A) is at least fourteen (14) years of age;
 37 (B) is on probation, is on parole, is discharged from a facility
 38 by the department of correction, is discharged from a secure
 39 private facility (as defined in IC 31-9-2-115), or is discharged
 40 from a juvenile detention facility as a result of an adjudication
 41 as a delinquent child for an act that would be an offense
 42 described in subsection (a) if committed by an adult; and
 43 (C) is found by a court by clear and convincing evidence to be
 44 likely to repeat an act that would be an offense described in
 45 subsection (a) if committed by an adult.
- 46 (c) In making a determination under subsection (b)(2)(C), the court

1 shall consider expert testimony concerning whether a child is likely to
 2 repeat an act that would be an offense described in subsection (a) if
 3 committed by an adult.

4 **(d) A person ordered to register under subsection (b)(2) may**
 5 **petition the court to reconsider the order at any time after**
 6 **completing court ordered sex offender treatment. The court shall**
 7 **consider expert testimony concerning whether a child or person is**
 8 **likely to repeat an offense described in subsection (a) or an act that**
 9 **would be an offense described in subsection (a) if committed by an**
 10 **adult.**

11 SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.142-2020,
 12 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2021]: Sec. 5. (a) Except as provided in section 22 of this
 14 chapter, as used in this chapter, "sex or violent offender" means a
 15 person convicted of any of the following offenses:

- 16 (1) Rape (IC 35-42-4-1).
- 17 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 18 (3) Child molesting (IC 35-42-4-3).
- 19 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- 20 (5) Vicarious sexual gratification (including performing sexual
 21 conduct in the presence of a minor) (IC 35-42-4-5).
- 22 (6) Child solicitation (IC 35-42-4-6).
- 23 (7) Child seduction (IC 35-42-4-7).
- 24 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
 25 Class B, or Class C felony (for a crime committed before July 1,
 26 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
 27 crime committed after June 30, 2014), unless:
 - 28 (A) the person is convicted of sexual misconduct with a minor
 29 as a Class C felony (for a crime committed before July 1,
 30 2014) or a Level 5 felony (for a crime committed after June
 31 30, 2014);
 - 32 (B) the person is not more than:
 - 33 (i) four (4) years older than the victim if the offense was
 34 committed after June 30, 2007; or
 - 35 (ii) five (5) years older than the victim if the offense was
 36 committed before July 1, 2007; and
 - 37 (C) the sentencing court finds that the person should not be
 38 required to register as a sex offender.
- 39 (9) Incest (IC 35-46-1-3).
- 40 (10) Sexual battery (IC 35-42-4-8).
- 41 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 42 (18) years of age, and the person who kidnapped the victim is not
 43 the victim's parent or guardian.
- 44 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 45 than eighteen (18) years of age, and the person who confined or
 46 removed the victim is not the victim's parent or guardian.

- 1 (13) Possession of child pornography (IC 35-42-4-4(d) or
2 IC 35-42-4-4(e)).
- 3 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
4 (for a crime committed before July 1, 2014) or a Level 4 felony
5 (for a crime committed after June 30, 2014).
- 6 (15) Promotion of human sexual trafficking under
7 IC 35-42-3.5-1.1.
- 8 (16) Promotion of child sexual trafficking under
9 IC 35-42-3.5-1.2(a).
- 10 (17) Promotion of sexual trafficking of a younger child (IC
11 35-42-3.5-1.2(c)).
- 12 (18) Child sexual trafficking (IC 35-42-3.5-1.3).
- 13 (19) Human trafficking under IC 35-42-3.5-1.4 if the victim is
14 less than eighteen (18) years of age.
- 15 (20) Murder (IC 35-42-1-1).
- 16 (21) Voluntary manslaughter (IC 35-42-1-3).
- 17 (22) Sexual misconduct by a service provider with a detained or
18 supervised child (IC 35-44.1-3-10(c)).
- 19 (b) The term includes:
- 20 (1) a person who is required to register as a sex or violent
21 offender in any jurisdiction; and
- 22 (2) a child who has committed a delinquent act, **or a person**
23 **prosecuted under IC 31-30-1-4(d) for child molesting**
24 **committed when the person was less than eighteen (18) years**
25 **of age, but who was at least twenty-one (21) years of age when**
26 **the charge was filed, and who:**
- 27 (A) is at least fourteen (14) years of age;
- 28 (B) is on probation, is on parole, is discharged from a facility
29 by the department of correction, is discharged from a secure
30 private facility (as defined in IC 31-9-2-115), or is discharged
31 from a juvenile detention facility as a result of an adjudication
32 as a delinquent child for an act that would be an offense
33 described in subsection (a) if committed by an adult; and
- 34 (C) is found by a court by clear and convincing evidence to be
35 likely to repeat an act that would be an offense described in
36 subsection (a) if committed by an adult.
- 37 (c) In making a determination under subsection (b)(2)(C), the court
38 shall consider expert testimony concerning whether a child is likely to
39 repeat an act that would be an offense described in subsection (a) if
40 committed by an adult.
- 41 **(d) A person ordered to register under subsection (b)(2) may**
42 **petition the court to reconsider the order at any time after**
43 **completing court ordered sex offender treatment. The court shall**
44 **consider expert testimony concerning whether a child or person is**
45 **likely to repeat an offense described in subsection (a) or an act that**
46 **would be an offense described in subsection (a) if committed by an**

- 1 **adult."**
- 2 Renumber all SECTIONS consecutively.
(Reference is to EHB 1198 as printed March 12, 2021.)

Senator TALLIAN