



Reprinted
March 1, 2016

ENGROSSED HOUSE BILL No. 1105

DIGEST OF HB 1105 (Updated February 29, 2016 4:27 pm - DI 106)

Citations Affected: IC 34-60; IC 35-37; IC 35-41.

Synopsis: Prosecutions for rape and criminal deviate conduct. Specifies that certain exceptions to the statute of limitations for rape as a Level 3 felony also apply to rape as a Class B felony (for crimes committed before July 1, 2014). Provides that a prosecution for criminal deviate conduct as a Class B felony for an offense committed before the crime was repealed on July 1, 2014, that would otherwise be barred may be commenced not later than five years after the earliest of the date on which: (1) the state first discovers evidence sufficient to charge the offender with the offense through DNA analysis; (2) the state first becomes aware of the existence of a recording that provides evidence sufficient to charge the offender with the offense; or (3) a person confesses to the offense. Provides that state educational institution and approved postsecondary educational institution student advocate office employees and volunteers who provide services to certain victims have testimonial privilege regarding confidential victim information.

Effective: July 1, 2016.

Hale, Olthoff, Kirchhofer, McNamara

(SENATE SPONSORS — CRIDER, BASSLER, CHARBONNEAU,
MILLER PATRICIA)

January 7, 2016, read first time and referred to Committee on Courts and Criminal Code.
January 21, 2016, amended, reported — Do Pass.
January 25, 2016, read second time, ordered engrossed.
January 26, 2016, engrossed. Read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 3, 2016, read first time and referred to Committee on Corrections & Criminal Law.
February 25, 2016, reported favorably — Do Pass.
February 29, 2016, read second time, amended, ordered engrossed.

EH 1105—LS 6080/DI 106



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Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1105

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

- 1 SECTION 1. IC 34-60-1-2, AS ADDED BY P.L.150-2014,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 2. (a) As used in this chapter, "victim advocate"
4 means an individual employed or appointed by or who volunteers for
5 a victim service provider:
6 (b) The term does not include:
7 (1) a law enforcement officer;
8 (2) an employee or agent of a law enforcement officer;
9 (3) a prosecuting attorney; or
10 (4) an employee or agent of a prosecuting attorney's office.
11 (c) The term includes an employee, an appointee, or a volunteer of
12 at:
13 (1) victim service provider;
14 (2) domestic violence program;
15 (3) sexual assault program;
16 (4) rape crisis center;
17 (5) battered women's shelter;

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- 1 (6) transitional housing program for victims of domestic violence;
 2 or
 3 (7) program that, as one (1) of its primary purposes, provides
 4 services to an individual:
 5 (A) against whom an act of:
 6 (i) domestic or family violence;
 7 (ii) dating violence;
 8 (iii) sexual assault (as defined in IC 5-26.5-1-8);
 9 (iv) human and sexual trafficking (IC 35-42-3.5); or
 10 (v) stalking (IC 35-45-10-5);
 11 is committed; or
 12 (B) who:
 13 (i) is not accused of committing an act of domestic or family
 14 violence, dating violence, sexual assault (as defined in
 15 IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5);
 16 or stalking (IC 35-45-10-5); and
 17 (ii) is a member of the family of an individual described in
 18 clause (A) other than a family member who is accused of
 19 committing an act of domestic or family violence, dating
 20 violence, sexual assault (as defined in IC 5-26.5-1-8);
 21 human and sexual trafficking (IC 35-42-3.5); or stalking
 22 (IC 35-45-10-5); **has the meaning set forth in**
 23 **IC 35-37-6-3.5.**

24 SECTION 2. IC 35-37-6-2.7 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2016]: **Sec. 2.7. As used in this chapter, "student advocate office"**
 27 **means a student services office, victim assistance office, or other**
 28 **victim counselor as designated by a state educational institution or**
 29 **an approved postsecondary educational institution.**

30 SECTION 3. IC 35-37-6-3.5, AS ADDED BY P.L.104-2008,
 31 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2016]: Sec. 3.5. (a) As used in this chapter, "victim advocate"
 33 means an individual employed or appointed by or who volunteers for:

- 34 (1) a victim services provider; or
 35 (2) the student advocate office of a state educational
 36 institution or an approved postsecondary educational
 37 institution, if the individual provides services to a victim.
 38 (b) The term does not include:
 39 (1) a law enforcement officer;
 40 (2) an employee or agent of a law enforcement officer;
 41 (3) a prosecuting attorney; or
 42 (4) an employee or agent of a prosecuting attorney's office.



- 1 (c) The term includes an employee, an appointee, or a volunteer of
 2 a:
 3 (1) victim services provider;
 4 (2) domestic violence program;
 5 (3) sexual assault program;
 6 (4) rape crisis center;
 7 (5) battered women's shelter;
 8 (6) transitional housing program for victims of domestic violence;
 9 or
 10 (7) program that has as one (1) of its primary purposes to provide
 11 services to an individual:
 12 (A) against whom an act of:
 13 (i) domestic or family violence;
 14 (ii) dating violence;
 15 (iii) sexual assault (as defined in IC 5-26.5-1-8);
 16 (iv) human and sexual trafficking (IC 35-42-3.5); or
 17 (v) stalking (IC 35-45-10-5);
 18 is committed; or
 19 (B) who:
 20 (i) is not accused of committing an act of domestic or family
 21 violence, dating violence, sexual assault (as defined in
 22 IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5),
 23 or stalking (IC 35-45-10-5); and
 24 (ii) is a member of the family of an individual described in
 25 clause (A) other than a family member who is accused of
 26 committing an act of domestic or family violence, dating
 27 violence, sexual assault (as defined in IC 5-26.5-1-8),
 28 human and sexual trafficking (IC 35-42-3.5), or stalking
 29 (IC 35-45-10-5).
 30 SECTION 4. IC 35-41-4-2, AS AMENDED BY P.L.72-2015,
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2016]: Sec. 2. (a) Except as otherwise provided in this section,
 33 a prosecution for an offense is barred unless it is commenced:
 34 (1) within five (5) years after the commission of the offense, in
 35 the case of a Class B, Class C, or Class D felony (for a crime
 36 committed before July 1, 2014) or a Level 3, Level 4, Level 5, or
 37 Level 6 felony (for a crime committed after June 30, 2014); or
 38 (2) within two (2) years after the commission of the offense, in the
 39 case of a misdemeanor.
 40 (b) A prosecution for a Class B or Class C felony (for a crime
 41 committed before July 1, 2014) or a Level 3, Level 4, or Level 5 felony
 42 (for a crime committed after June 30, 2014) that would otherwise be



1 barred under this section may be commenced within one (1) year after
2 the earlier of the date on which the state:

- 3 (1) first discovers evidence sufficient to charge the offender with
4 the offense through DNA (deoxyribonucleic acid) analysis; or
5 (2) could have discovered evidence sufficient to charge the
6 offender with the offense through DNA (deoxyribonucleic acid)
7 analysis by the exercise of due diligence.

8 (c) A prosecution for a Class A felony (for a crime committed
9 before July 1, 2014) or a Level 1 felony or Level 2 felony (for a crime
10 committed after June 30, 2014) may be commenced at any time.

11 (d) A prosecution for murder may be commenced:

- 12 (1) at any time; and
13 (2) regardless of the amount of time that passes between:
14 (A) the date a person allegedly commits the elements of
15 murder; and
16 (B) the date the alleged victim of the murder dies.

17 (e) A prosecution for the following offenses is barred unless
18 commenced before the date that the alleged victim of the offense
19 reaches thirty-one (31) years of age:

- 20 (1) IC 35-42-4-3(a) (Child molesting).
21 (2) IC 35-42-4-5 (Vicarious sexual gratification).
22 (3) IC 35-42-4-6 (Child solicitation).
23 (4) IC 35-42-4-7 (Child seduction).
24 (5) IC 35-46-1-3 (Incest).

25 (f) A prosecution for forgery of an instrument for payment of
26 money, or for the uttering of a forged instrument, under IC 35-43-5-2,
27 is barred unless it is commenced within five (5) years after the maturity
28 of the instrument.

29 (g) If a complaint, indictment, or information is dismissed because
30 of an error, defect, insufficiency, or irregularity, a new prosecution may
31 be commenced within ninety (90) days after the dismissal even if the
32 period of limitation has expired at the time of dismissal, or will expire
33 within ninety (90) days after the dismissal.

34 (h) The period within which a prosecution must be commenced does
35 not include any period in which:

- 36 (1) the accused person is not usually and publicly resident in
37 Indiana or so conceals himself or herself that process cannot be
38 served;
39 (2) the accused person conceals evidence of the offense, and
40 evidence sufficient to charge the person with that offense is
41 unknown to the prosecuting authority and could not have been
42 discovered by that authority by exercise of due diligence; or



- 1 (3) the accused person is a person elected or appointed to office
 2 under statute or constitution, if the offense charged is theft or
 3 conversion of public funds or bribery while in public office.
- 4 (i) For purposes of tolling the period of limitation only, a
 5 prosecution is considered commenced on the earliest of these dates:
 6 (1) The date of filing of an indictment, information, or complaint
 7 before a court having jurisdiction.
 8 (2) The date of issuance of a valid arrest warrant.
 9 (3) The date of arrest of the accused person by a law enforcement
 10 officer without a warrant, if the officer has authority to make the
 11 arrest.
- 12 (j) A prosecution is considered timely commenced for any offense
 13 to which the defendant enters a plea of guilty, notwithstanding that the
 14 period of limitation has expired.
- 15 (k) The following apply to the specified offenses:
 16 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of
 17 funeral trust funds) is barred unless commenced within five (5)
 18 years after the date of death of the settlor (as described in
 19 IC 30-2-9).
 20 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse
 21 of funeral trust funds) is barred unless commenced within five (5)
 22 years after the date of death of the settlor (as described in
 23 IC 30-2-10).
 24 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse
 25 of funeral trust or escrow account funds) is barred unless
 26 commenced within five (5) years after the date of death of the
 27 purchaser (as defined in IC 30-2-13-9).
- 28 (l) A prosecution for an offense under IC 23-14-48-9 is barred
 29 unless commenced within five (5) years after the earlier of the date on
 30 which the state:
 31 (1) first discovers evidence sufficient to charge the offender with
 32 the offense; or
 33 (2) could have discovered evidence sufficient to charge the
 34 offender with the offense by the exercise of due diligence.
- 35 (m) A prosecution for a sex offense listed in IC 11-8-8-4.5 that is
 36 committed against a child and that is not:
 37 (1) a Class A felony (for a crime committed before July 1, 2014)
 38 or a Level 1 felony or Level 2 felony (for a crime committed after
 39 June 30, 2014); or
 40 (2) listed in subsection (e);
 41 is barred unless commenced within ten (10) years after the commission
 42 of the offense, or within four (4) years after the person ceases to be a



1 dependent of the person alleged to have committed the offense,
2 whichever occurs later.

3 (n) A prosecution for rape (IC 35-42-4-1) as a **Class B felony (for**
4 **a crime committed before July 1, 2014) or as a Level 3 felony (for**
5 **a crime committed after June 30, 2014)** that would otherwise be
6 barred under this section may be commenced not later than five (5)
7 years after the earlier of the date on which:

8 (1) the state first discovers evidence sufficient to charge the
9 offender with the offense through DNA (deoxyribonucleic acid)
10 analysis;

11 (2) the state first becomes aware of the existence of a recording
12 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
13 to charge the offender with the offense; or

14 (3) a person confesses to the offense.

15 (o) **A prosecution for criminal deviate conduct (IC 35-42-4-2)**
16 **(repealed) as a Class B felony for a crime committed before July 1,**
17 **2014, that would otherwise be barred under this section may be**
18 **commenced not later than five (5) years after the earliest of the**
19 **date on which:**

20 (1) **the state first discovers evidence sufficient to charge the**
21 **offender with the offense through DNA (deoxyribonucleic**
22 **acid) analysis;**

23 (2) **the state first becomes aware of the existence of a**
24 **recording (as defined in IC 35-31.5-2-273) that provides**
25 **evidence sufficient to charge the offender with the offense; or**

26 (3) **a person confesses to the offense.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1105, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, after line 10, begin a new paragraph and insert:

"(o) A prosecution for criminal deviate conduct (IC 35-42-4-2) (repealed) as a Class B felony for a crime committed before July 1, 2014, that would otherwise be barred under this section may be commenced not later than five (5) years after the earliest of the date on which:

- (1) the state first discovers evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) analysis;**
- (2) the state first becomes aware of the existence of a recording (as defined in IC 35-31.5-2-273) that provides evidence sufficient to charge the offender with the offense; or**
- (3) a person confesses to the offense."**

and when so amended that said bill do pass.

(Reference is to HB 1105 as introduced.)

WASHBURNE

Committee Vote: yeas 12, nays 0.

 COMMITTEE REPORT

Madam President: The Senate Committee on Corrections & Criminal Law, to which was referred House Bill No. 1105, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB1105 as printed January 22, 2016.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 6, Nays 0

EH 1105—LS 6080/DI 106



SENATE MOTION

Madam President: I move that Engrossed House Bill 1105 be amended to read as follows:

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

"SECTION 1. IC 34-60-1-2, AS ADDED BY P.L.150-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) As used in this chapter, "victim advocate" means an individual employed or appointed by or who volunteers for a victim service provider:

(b) The term does not include:

- (1) a law enforcement officer;
- (2) an employee or agent of a law enforcement officer;
- (3) a prosecuting attorney; or
- (4) an employee or agent of a prosecuting attorney's office.

(c) The term includes an employee, an appointee, or a volunteer of

at:

- (1) victim service provider;
- (2) domestic violence program;
- (3) sexual assault program;
- (4) rape crisis center;
- (5) battered women's shelter;
- (6) transitional housing program for victims of domestic violence;

or

(7) program that, as one (1) of its primary purposes, provides services to an individual:

(A) against whom an act of:

- (i) domestic or family violence;
- (ii) dating violence;
- (iii) sexual assault (as defined in IC 5-26.5-1-8);
- (iv) human and sexual trafficking (IC 35-42-3.5); or
- (v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

- (i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and
- (ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating



violence; sexual assault (as defined in IC 5-26.5-1-8); human and sexual trafficking (IC 35-42-3.5); or stalking (IC 35-45-10-5); **has the meaning set forth in IC 35-37-6-3.5.**

SECTION 2. IC 35-37-6-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 2.7. As used in this chapter, "student advocate office" means a student services office, victim assistance office, or other victim counselor as designated by a state educational institution or an approved postsecondary educational institution.**

SECTION 3. IC 35-37-6-3.5, AS ADDED BY P.L.104-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 3.5. (a) As used in this chapter, "victim advocate" means an individual employed or appointed by or who volunteers for:**

- (1) a victim services provider; or**
- (2) the student advocate office of a state educational institution or an approved postsecondary educational institution, if the individual provides services to a victim.**
- (b) The term does not include:
 - (1) a law enforcement officer;
 - (2) an employee or agent of a law enforcement officer;
 - (3) a prosecuting attorney; or
 - (4) an employee or agent of a prosecuting attorney's office.
- (c) The term includes an employee, an appointee, or a volunteer of
 - a:
 - (1) victim services provider;
 - (2) domestic violence program;
 - (3) sexual assault program;
 - (4) rape crisis center;
 - (5) battered women's shelter;
 - (6) transitional housing program for victims of domestic violence;
 - or
 - (7) program that has as one (1) of its primary purposes to provide services to an individual:
 - (A) against whom an act of:
 - (i) domestic or family violence;
 - (ii) dating violence;
 - (iii) sexual assault (as defined in IC 5-26.5-1-8);
 - (iv) human and sexual trafficking (IC 35-42-3.5); or
 - (v) stalking (IC 35-45-10-5);
 - is committed; or
 - (B) who:
 - (i) is not accused of committing an act of domestic or family



violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and
(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5)."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1105 as printed February 26, 2016.)

CRIDER

