

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.

## HOUSE ENROLLED ACT No. 1199

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

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

SECTION 1. IC 11-8-8-4.5, AS AMENDED BY P.L.168-2014, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4.5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
  - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);

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- (B) the person is not more than:
  - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
  - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
- (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (IC 35-42-4-4(c)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).
- (15) Promotion of human trafficking **under** IC 35-42-3.5-1(a)(2). ~~if the victim is less than eighteen (18) years of age.~~
- (16) Promotion of human trafficking of a minor under IC 35-42-3.5-1(b)(1)(B) or IC 35-42-3.5-1(b)(2).**
- ~~(16)~~ **(17)** Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
- ~~(17)~~ **(18)** Human trafficking **under** IC 35-42-3.5-1(d)(3) if the victim is less than eighteen (18) years of age.
- ~~(18)~~ **(19)** Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).
- ~~(19)~~ **(20)** An attempt or conspiracy to commit a crime listed in subdivisions ~~(1) through (18):~~ **this subsection.**
- ~~(20)~~ **(21)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions ~~(1) through (19):~~ **this subsection.**
- (b) The term includes:
  - (1) a person who is required to register as a sex offender in any jurisdiction; and
  - (2) a child who has committed a delinquent act and who:
    - (A) is at least fourteen (14) years of age;
    - (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged



from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.168-2014, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
  - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
  - (B) the person is not more than:
    - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
    - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
  - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not



the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (IC 35-42-4-4(c)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).

(15) Promotion of human trafficking **under** IC 35-42-3.5-1(a)(2). ~~if the victim is less than eighteen (18) years of age.~~

**(16) Promotion of human trafficking of a minor under IC 35-42-3.5-1(b)(1)(B) or IC 35-42-3.5-1(b)(2).**

~~(16)~~ (17) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).

~~(17)~~ (18) Human trafficking **under** IC 35-42-3.5-1(d)(3) if the victim is less than eighteen (18) years of age.

~~(18)~~ (19) Murder (IC 35-42-1-1).

~~(19)~~ (20) Voluntary manslaughter (IC 35-42-1-3).

~~(20)~~ (21) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

~~(21)~~ (22) An attempt or conspiracy to commit a crime listed in subdivisions ~~(1) through (20)~~: **this subsection.**

~~(22)~~ (23) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions ~~(1) through (21)~~: **this subsection.**

(b) The term includes:

(1) a person who is required to register as a sex or violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if



committed by an adult.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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