

HOUSE BILL No. 1211

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-10-2-10; IC 11-12-4-1; IC 35-33-11-3.

Synopsis: Detention of juveniles charged as adults. Requires the department of correction to adopt jail standards that prohibit a jail from housing a child less than 18 years of age in the same cell as an adult, even if the child is charged as an adult or has been convicted of an offense as an adult. Specifies that a county jail may transfer a child if necessary to comply with the prohibition against housing a child in the same cell as an adult.

Effective: July 1, 2021.

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January 14, 2021, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1211

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 11-10-2-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 10. (a) The
3 commissioner may transfer a committed delinquent offender to an adult
4 facility or program according to the following requirements:
5 (1) The offender must be seventeen (17) years of age or older at
6 the time of transfer.
7 (2) The department must determine that:
8 (A) either the offender is incorrigible to the degree that ~~his the~~
9 **offender's** presence at a facility or program for delinquent
10 offenders is seriously detrimental to the welfare of other
11 offenders, or the transfer is necessary for the offender's own
12 physical safety or the physical safety of others; and
13 (B) there is no other action reasonably available to alleviate
14 the problem.
15 (3) No offender may be transferred to **a county jail**, the Indiana
16 state prison, or the Pendleton Correctional Facility.
17 (b) The offender is under the full custody of the adult facility or



1 program to which ~~he~~ **the offender** is transferred until ~~he~~ **the offender**
 2 is returned to a facility or program for delinquent offenders, except that
 3 ~~his~~ **the offender's** parole or discharge from the department shall be
 4 determined under IC 11-13-6.

5 SECTION 2. IC 11-12-4-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) The department
 7 shall adopt under IC 4-22-2 minimum standards for county jails
 8 governing:

- 9 (1) general physical and environmental conditions;
 10 (2) services and programs to be provided to confined persons; and
 11 (3) procedures for the care and control of confined persons that
 12 are necessary to ensure the health and safety of confined persons,
 13 the security of the jail, and public safety.

14 However, the department may not adopt any standard that prohibits the
 15 placement of more than one (1) prisoner in a prisoner cell that has
 16 thirty-five (35) square feet or more of floor space per prisoner.

17 **(b) Standards adopted under this section must prohibit housing**
 18 **a child less than eighteen (18) years of age in the same cell as an**
 19 **adult, even if the child:**

- 20 **(1) is being charged as an adult; or**
 21 **(2) has been convicted of a crime as an adult.**

22 **This subsection does not prohibit a child described in subdivision**
 23 **(1) or (2) from being housed in the same cell as another child**
 24 **described in subdivision (1) or (2).**

25 ~~(b)~~ **(c)** The standards must be sufficiently flexible to foster the
 26 development of new and improved practices and to accommodate local
 27 needs and circumstances. The standards must be consistent with the
 28 laws of Indiana and the rules of the state department of health and the
 29 fire prevention and building safety commission.

30 ~~(c)~~ **(d)** The commissioner shall select a committee of not less than
 31 five (5) county sheriffs to consult with the department before and
 32 during the drafting of the proposed minimum standards. County
 33 sheriffs shall be selected from the various classes of counties to ensure
 34 that densely, moderately, and sparsely populated counties are
 35 represented. Each county sheriff is entitled to the minimum salary per
 36 diem as provided in IC 4-10-11-2.1 for each day engaged in the official
 37 business of the committee and to reimbursement for traveling and other
 38 expenses, as provided in the state travel policies and procedures
 39 established by the Indiana department of administration and approved
 40 by the budget agency.

41 ~~(d)~~ **(e)** At least sixty (60) days before setting the date for a public
 42 hearing under IC 4-22-2, the department shall forward copies of the



1 proposed minimum standards to each county sheriff and each board of
2 county commissioners and shall solicit their views and suggestions.

3 SECTION 3. IC 35-33-11-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. Upon petition by the
5 sheriff alleging that:

6 (1) the local penal facility is overcrowded, ~~or~~ otherwise physically
7 inadequate to house inmates, **or unable to house a child in**
8 **accordance with the standards described in IC 11-12-4-1;** and

9 (2) another sheriff or the commissioner of the department of
10 correction has agreed to accept custody of inmates from the
11 sheriff;

12 the court may order inmates transferred to the custody of the person
13 who has agreed to accept custody. Whenever a transfer order is
14 necessary under this section, only inmates serving a sentence after
15 conviction for a crime may be transferred, unless the overcrowding or
16 inadequacy of the facility also requires transfer of inmates awaiting
17 trial or sentencing.

