



Reprinted
April 5, 2017

ENGROSSED HOUSE BILL No. 1218

DIGEST OF HB 1218 (Updated April 4, 2017 2:55 pm - DI 106)

Citations Affected: IC 11-12; IC 31-9; IC 31-30; IC 31-37; IC 31-39;
IC 35-31.5; IC 35-38; IC 35-42; IC 35-45.

Synopsis: Juvenile justice. Adds additional members to a community corrections advisory board. Allows an application for a state grant for a community corrections program for juveniles to be made to the department of correction division of youth services. Provides that a child who was: (1) the victim of human trafficking; and (2) adjudicated a delinquent child for an act performed while a victim of human trafficking and the delinquent act was a result of human trafficking; is entitled to have the adjudication expunged. Specifies that expunged electronic records must be stored in a secure data base. Permits the department of correction to award funding to a court appointed forensic advocate program. Provides that a person who was: (1) the victim of human trafficking; and (2) convicted of a nonviolent offense committed
(Continued next page)

Effective: July 1, 2017.

McNamara, Candelaria Reardon, Steuerwald, Porter

(SENATE SPONSORS — HEAD, BRAY, MESSMER, ECKERTY, LANANE,
SANDLIN, RANDOLPH LONNIE M)

January 10, 2017, read first time and referred to Committee on Courts and Criminal Code.
February 9, 2017, amended, reported — Do Pass.
February 13, 2017, read second time, ordered engrossed. Engrossed.
February 14, 2017, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 20, 2017, read first time and referred to Committee on Corrections and Criminal
Law.

March 30, 2017, amended, reported favorably — Do Pass.
April 4, 2017, read second time, amended, ordered engrossed.

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Digest Continued

while the person was being trafficked; is entitled to have the person's conviction vacated if certain conditions are met. Provides that prostitution is a criminal offense only if committed by a person who is at least 18 years of age. Defines "juvenile prostitution". Provides that a person less than 18 years of age who is engaged in juvenile prostitution is considered a victim of juvenile prostitution and human or sexual trafficking. Adds juvenile prostitution to offenses involving prostitution in human trafficking crimes and the crimes of visiting a common nuisance and promoting prostitution. Makes technical corrections.



Reprinted
April 5, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1218

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 11-12-2-2, AS AMENDED BY P.L.44-2009,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 2. (a) To qualify for financial aid under this
4 chapter, a county must establish a community corrections advisory
5 board by resolution of the county executive or, in a county having a
6 consolidated city, by the city-county council. A community corrections
7 advisory board consists of:
8 (1) the county sheriff or the sheriff's designee;
9 (2) the prosecuting attorney or the prosecuting attorney's
10 designee;
11 ~~(3) the director of the county office of the division of family~~
12 ~~resources or the director's designee;~~
13 ~~(4) (3) the executive of the most populous municipality in the~~
14 ~~county or the executive's designee;~~
15 ~~(5) (4) two (2) judges having criminal jurisdiction, if available,~~
16 ~~appointed by the circuit court judge or the judges' designees;~~
17 ~~(6) (5) one (1) judge having juvenile jurisdiction, appointed by~~

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1 the circuit court judge;

2 ~~(7)~~ **(6)** one (1) public defender or the public defender's designee,
3 if available, or one (1) attorney with a substantial criminal defense
4 practice appointed by the county executive or, in a county having
5 a consolidated city, by the city-county council;

6 ~~(8)~~ **(7)** one (1) victim, or victim advocate if available, appointed
7 by the county executive or, in a county having a consolidated city,
8 by the city-county council;

9 ~~(9)~~ **(8)** one (1) ex-offender, if available, appointed by the county
10 executive or, in a county having a consolidated city, by the
11 city-county council; ~~and~~

12 **(9) the director of the local office of the department of child**
13 **services or the director's designee;**

14 **(10) a representative from a juvenile correctional facility or**
15 **juvenile detention center in the county, but if no facility exists,**
16 **one (1) mental health representative chosen by the judge**
17 **described in subdivision (5);**

18 **(11) a representative from the Juvenile Detention Alternatives**
19 **Initiative, but if no program exists, a representative from the**
20 **court appointed special advocate program in the county or**
21 **guardian ad litem program in the county; and**

22 ~~(10)~~ **(12)** the following members appointed by the county
23 executive or, in a county having a consolidated city, by the
24 city-county council:

25 (A) One (1) member of the county fiscal body or the member's
26 designee.

27 (B) One (1) probation officer.

28 **(C) One (1) juvenile probation officer.**

29 ~~(D)~~ **(D)** One (1) educational administrator.

30 ~~(E)~~ **(E)** One (1) representative of a private correctional
31 agency, if such an agency exists in the county.

32 ~~(F)~~ **(F)** One (1) mental health administrator, or, if there is none
33 available in the county, one (1) psychiatrist, psychologist, or
34 physician.

35 ~~(G)~~ **(G)** Four (4) lay persons, at least one (1) of whom must be
36 a member of a minority race if a racial minority resides in the
37 county and a member of that minority is willing to serve.

38 (b) Designees of officials designated under subsection (a)(1)
39 through ~~(a)(7)~~, **(a)(6)**, and ~~(a)(10)(A)~~ **(a)(9)**, and **(a)(12)(A)** serve at
40 the pleasure of the designating official.

41 (c) Members of the advisory board appointed by the county
42 executive or, in a county having a consolidated city, by the city-county



1 council, shall be appointed for a term of four (4) years. The criminal
 2 defense attorney, the ex-offender, and the victim or victim advocate
 3 shall be appointed for a term of four (4) years. Other members serve
 4 only while holding the office or position held at the time of
 5 appointment. The circuit court judge may fill the position of the judge
 6 having juvenile court jurisdiction by self appointment if the circuit
 7 court judge is otherwise qualified. A vacancy occurring before the
 8 expiration of the term of office shall be filled in the same manner as
 9 original appointments for the unexpired term. Members may be
 10 reappointed.

11 (d) Two (2) or more counties, by resolution of their county
 12 executives or, in a county having a consolidated city, by the city-county
 13 council, may combine to apply for financial aid under this chapter. If
 14 counties so combine, the counties may establish one (1) community
 15 corrections advisory board to serve these counties. This board must
 16 contain the representation prescribed in subsection (a), but the
 17 members may come from the participating counties as determined by
 18 agreement of the county executives or, in a county having a
 19 consolidated city, by the city-county council.

20 (e) The members of the community corrections advisory board shall,
 21 within thirty (30) days after the last initial appointment is made, meet
 22 and elect one (1) member as chairman and another as vice chairman
 23 and appoint a secretary-treasurer who need not be a member. A
 24 majority of the members of a community corrections advisory board
 25 may provide for a number of members that is:

26 (1) less than a majority of the members; and

27 (2) at least six (6);

28 to constitute a quorum for purposes of transacting business. The
 29 affirmative votes of at least five (5) members, but not less than a
 30 majority of the members present, are required for the board to take
 31 action. A vacancy in the membership does not impair the right of a
 32 quorum to transact business.

33 (f) The county executive and county fiscal body shall provide
 34 necessary assistance and appropriations to the community corrections
 35 advisory board established for that county. Appropriations required
 36 under this subsection are limited to amounts received from the
 37 following sources:

38 (1) Department grants.

39 (2) User fees.

40 (3) Other funds as contained within an approved plan.

41 Additional funds may be appropriated as determined by the county
 42 executive and county fiscal body.



1 SECTION 2. IC 11-12-2-4, AS AMENDED BY P.L.69-2016,
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2017]: Sec. 4. (a) **Except as provided in subsection (h)**, a
 4 county or group of counties, or a court or a group of courts, seeking
 5 financial aid under this chapter must apply to the commissioner in a
 6 manner and form prescribed by the commissioner. If the application is
 7 for a community corrections program, the application must include a
 8 community corrections plan that has been approved by the community
 9 corrections board and the county executive or, in a county having a
 10 consolidated city, by the city-county council. If the application is for a
 11 court supervised recidivism reduction program, the application must
 12 include information required by the department. If:

13 (1) the application is from a county (not including a court); and

14 (2) the county operates a community corrections program;

15 the application must be approved by the community corrections
 16 advisory board. The commissioner shall give priority consideration to
 17 applicants that demonstrate collaboration between the local community
 18 corrections advisory board and court supervised recidivism reduction
 19 programs **or juvenile justice programs**. No county may receive
 20 financial aid until its application is approved by the commissioner.

21 (b) A community corrections plan must comply with rules adopted
 22 under section 5 of this chapter and must include:

23 (1) a description of each program for which financial aid is
 24 sought;

25 (2) the purpose, objective, administrative structure, staffing, and
 26 duration of the program;

27 (3) a method to evaluate each component of the program to
 28 determine the overall use of department approved best practices
 29 for the program;

30 (4) the program's total operating budget, including all other
 31 sources of anticipated income;

32 (5) the amount of community involvement and client participation
 33 in the program;

34 (6) the location and description of facilities that will be used in
 35 the program;

36 (7) the manner in which counties that jointly apply for financial
 37 aid under this chapter will operate a coordinated community
 38 corrections program; and

39 (8) a plan of collaboration among the probation department, the
 40 community corrections program, and any other local criminal
 41 justice agency that receives funding from the department for the
 42 provision of community supervision for adult offenders. Counties



1 are encouraged to include the courts, prosecuting attorneys, public
 2 defenders, and sheriffs when addressing the needs of the local
 3 criminal justice population. The community supervision
 4 collaboration plan must be submitted to the department and the
 5 Indiana judicial center by January 1, 2016, and must include:

6 (A) a description of the evidence based services provided to
 7 felony offenders by the community corrections program and
 8 the probation department;

9 (B) the manner in which the community corrections program
 10 and the probation department intend to reduce the duplication
 11 of services to offenders under community supervision;

12 (C) the manner in which the community corrections program
 13 and the probation department intend to coordinate operations
 14 and collaborate on the supervision of adult felony offenders;

15 (D) the eligibility criteria established for community based
 16 services provided to adult felony offenders;

17 (E) the criteria for using the community corrections program
 18 as an intermediate sanction for an offender's violation of
 19 probation conditions;

20 (F) a description of how financial aid from the department,
 21 program fees, and probation user fees will be used to provide
 22 services to adult felony offenders; and

23 (G) documentary evidence of compliance with department
 24 rules for community corrections programs and judicial
 25 conference of Indiana standards for probation departments.

26 (c) A community corrections plan must be annually updated,
 27 approved by the county executive or, in a city having a consolidated
 28 city, by the city-county council, and submitted to the commissioner.

29 (d) No amendment to or substantial modification of an approved
 30 community corrections plan may be placed in effect until the
 31 department and county executive, or in a county having a consolidated
 32 city, the city-county council, have approved the amendment or
 33 modification.

34 (e) A copy of the final plan as approved by the department shall be
 35 made available to the board in a timely manner.

36 (f) The commissioner may, subject to availability of funds, give
 37 priority in issuing additional financial aid to counties with a community
 38 supervision collaboration plan approved by the department and the
 39 Indiana judicial center. The additional financial aid may be used for
 40 any evidence based service or program in the approved plan.

41 (g) Purposes for which the commissioner may award financial aid
 42 under this chapter include:

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- 1 (1) assisting a county in defraying the expenses of incarceration;
 2 (2) funding mental health, addiction, and cognitive behavior
 3 treatment programs for incarcerated persons;
 4 (3) funding mental health, addiction, and cognitive behavior
 5 treatment programs for persons who are on probation, are
 6 supervised by a community corrections program, or are
 7 participating in a pretrial diversion program offered by a
 8 prosecuting attorney;
 9 (4) funding work release and other community corrections
 10 programs; **and**
 11 (5) reimbursing a county for probation officer and community
 12 correction officer salaries; **and**
 13 **(6) funding a court appointed forensic advocate program (as**
 14 **described in IC 35-36-12) for persons who are on probation,**
 15 **are supervised by a community corrections program, or are**
 16 **participating in a pretrial diversion program.**

17 **(h) If the application described in subsection (a) is for a juvenile**
 18 **justice program, the county executive, or in a county having a**
 19 **consolidated city, the city-county council, may apply directly to the**
 20 **division of youth services in a manner and form prescribed by the**
 21 **commissioner.**

22 SECTION 3. IC 31-9-2-133.1, AS ADDED BY P.L.46-2016,
 23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2017]: Sec. 133.1. "Victim of human or sexual trafficking",
 25 for purposes of IC 31-34-1-3.5, refers to a child who is recruited,
 26 harbored, transported, or engaged in:

- 27 (1) forced labor;
 28 (2) involuntary servitude;
 29 (3) prostitution;
 30 **(4) juvenile prostitution, as defined in IC 35-31.5-2-178.5;**
 31 ~~(5)~~ **(5) child exploitation, as defined in IC 35-42-4-4(b);**
 32 ~~(6)~~ **(6) marriage, unless authorized by a court under IC 31-11-1-6;**
 33 or
 34 ~~(7)~~ **(7) trafficking for the purpose of prostitution, juvenile**
 35 **prostitution, or participation in sexual conduct as defined in**
 36 **IC 35-42-4-4(a)(4).**

37 SECTION 4. IC 31-30-2-1, AS AMENDED BY P.L.48-2012,
 38 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2017]: Sec. 1. (a) Except as provided in subsections (b), **and**
 40 **(c), and (h),** the juvenile court's jurisdiction over a delinquent child or
 41 a child in need of services and over the child's parent, guardian, or
 42 custodian continues until:



1 (1) the child becomes twenty-one (21) years of age, unless the
 2 court discharges the child and the child's parent, guardian, or
 3 custodian at an earlier time; or

4 (2) guardianship of the child is awarded to the department of
 5 correction.

6 (b) The juvenile court may, on its own motion, after guardianship of
 7 a child is awarded to the department of correction, reinstate the court's
 8 jurisdiction for the purpose of ordering the child's parent, guardian, or
 9 custodian to participate in programs operated by or through the
 10 department of correction.

11 (c) The juvenile court's jurisdiction over a parent or guardian of the
 12 estate of a child under this section continues until the parent or
 13 guardian of the estate has satisfied the financial obligation of the parent
 14 or guardian of the estate that is imposed under IC 31-40 (or
 15 IC 31-6-4-18 before its repeal).

16 (d) Except as provided in subsection (g), the jurisdiction of the
 17 juvenile court over a proceeding described in IC 31-30-1-1(10) for a
 18 guardianship of the person continues until the earlier of the date that:

19 (1) the juvenile court terminates the guardianship of the person;

20 or

21 (2) the child becomes:

22 (A) nineteen (19) years of age, if a child who is at least
 23 eighteen (18) years of age is a full-time student in a secondary
 24 school or the equivalent level of vocational or career and
 25 technical education; or

26 (B) eighteen (18) years of age, if clause (A) does not apply.

27 If the guardianship of the person continues after the child becomes the
 28 age specified in subdivision (2), the juvenile court shall transfer the
 29 guardianship of the person proceedings to a court having probate
 30 jurisdiction in the county in which the guardian of the person resides.
 31 If the juvenile court has both juvenile and probate jurisdiction, the
 32 juvenile court may transfer the guardianship of the person proceedings
 33 to the probate docket of the court.

34 (e) The jurisdiction of the juvenile court to enter, modify, or enforce
 35 a support order under IC 31-40-1-5 continues during the time that the
 36 court retains jurisdiction over a guardianship of the person proceeding
 37 described in IC 31-30-1-1(10).

38 (f) At any time, a juvenile court may, with the consent of a probate
 39 court, transfer to the probate court guardianship of the person
 40 proceedings and any related support order initiated in the juvenile
 41 court.

42 (g) A juvenile court may retain jurisdiction over an older youth, as



1 defined in IC 31-28-5.8-4, who is a recipient or beneficiary of:

2 (1) kinship guardianship assistance under Title IV-E of the federal
3 Social Security Act (42 U.S.C. 673), as amended; or

4 (2) other financial assistance provided to or for the benefit of a
5 child who:

6 (A) was previously adjudicated as a child in need of services
7 or delinquent child;

8 (B) is a protected person under a legal guardianship if
9 IC 29-3-8-9(f) applies; and

10 (C) is approved for assistance under a rule or published policy
11 of the department.

12 **(h) Upon receipt of a motion under IC 31-37-22-11, the juvenile
13 court shall reinstate its jurisdiction to conduct a hearing and issue
14 an appropriate order in accordance with IC 31-37-22-11.**

15 SECTION 5. IC 31-37-22-1, AS AMENDED BY P.L.146-2008,
16 SECTION 659, IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2017]: Sec. 1. **(a)** While the juvenile court
18 retains jurisdiction under IC 31-30-2, the juvenile court may modify
19 any dispositional decree:

20 (1) upon the juvenile court's own motion;

21 (2) upon the motion of:

22 (A) the child;

23 (B) the child's parent, guardian, custodian, or guardian ad
24 litem;

25 (C) the probation officer; or

26 (D) the prosecuting attorney; or

27 (3) upon the motion of any person providing services to the child
28 or to the child's parent, guardian, or custodian under a decree of
29 the court.

30 **(b) Upon receipt of a motion under section 11 of this chapter,
31 the juvenile court shall reinstate its jurisdiction to conduct a
32 hearing and issue an appropriate order in accordance with section
33 11 of this chapter.**

34 SECTION 6. IC 31-37-22-11 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2017]: Sec. 11. **(a) As used in this section,
37 "trafficked child" means a child who was the victim of human
38 trafficking (IC 35-42-3.5) or a substantially similar human
39 trafficking offense committed in another jurisdiction, regardless of
40 whether the person who committed the human trafficking offense
41 was charged, tried, or convicted. The term includes a person who
42 is now an adult.**



1 **(b) Upon the written motion of a trafficked child, or any person**
 2 **acting on behalf of a trafficked child, the court that adjudicated the**
 3 **trafficked child a delinquent child shall vacate the adjudication**
 4 **issued with respect to the trafficked child, if the movant proves by**
 5 **a preponderance of the evidence that:**

6 **(1) the child was a trafficked child at the time the child**
 7 **performed the delinquent act that resulted in the**
 8 **adjudication;**

9 **(2) the delinquent act did not result in bodily injury to another**
 10 **person; and**

11 **(3) at the time the child committed the delinquent act, the**
 12 **child was:**

13 **(A) coerced by; or**

14 **(B) under the control of;**

15 **another person.**

16 **(c) Before vacating an adjudication under subsection (b), the**
 17 **court shall:**

18 **(1) forward a copy of the motion to the prosecuting attorney;**
 19 **and**

20 **(2) conduct a hearing at which the prosecuting attorney and**
 21 **the movant are entitled to be heard.**

22 SECTION 7. IC 31-39-8-1.5 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2017]: **Sec. 1.5. The juvenile court in the county of the original**
 25 **action has exclusive original jurisdiction over petitions to expunge**
 26 **records of a child alleged to be a delinquent child or a child in need**
 27 **of services.**

28 SECTION 8. IC 31-39-8-2 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 2. (a) Any person may**
 30 **petition a juvenile court at any time to remove from:**

31 **(1) the court's files;**

32 **(2) the files of law enforcement agencies; and**

33 **(3) the files of any other person who has provided services to a**
 34 **child under a court order;**

35 those records pertaining to the person's involvement in juvenile court
 36 proceedings.

37 **(b) Under this section, electronic records shall be removed to a**
 38 **secure data base to which the public or another person not having**
 39 **legal or statutory authority to access the records is not granted**
 40 **access to the data base.**

41 SECTION 9. IC 31-39-8-3 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 3. (a) A person may**



1 initiate a petition for the expungement of records of a child alleged
 2 to be a delinquent child or a child in need of services by filing a
 3 verified petition in the juvenile court in the county of the original
 4 action. The petition must set forth the following:

5 (1) The allegations and date of adjudication, if applicable, of
 6 the juvenile delinquency or child in need of services
 7 adjudications.

8 (2) The court in which juvenile delinquency or child in need
 9 of services allegations or petitions were filed.

10 (3) The law enforcement agency that employs the charging
 11 officer, if known.

12 (4) The case number or court cause number.

13 (5) Date of birth of the petitioner.

14 (6) Petitioner's Social Security number.

15 (7) All juvenile delinquency or child in need of services
 16 adjudications and criminal convictions occurring after the
 17 adjudication of the action sought to be expunged.

18 (8) All pending actions under IC 31-34 or IC 31-37 or criminal
 19 charges.

20 (b) A petition described in subsection (a) shall be served on:

21 (1) the prosecuting attorney; or

22 (2) in the case of a child in need of services case, the
 23 department of child services.

24 (c) The prosecuting attorney or department of child services has
 25 thirty (30) days in which to reply or otherwise object to the
 26 petition. The court may reduce the time in which a response must
 27 be filed for a show of good cause or within its discretion after a
 28 hearing is held.

29 (d) If the prosecuting attorney or department of child services
 30 timely files an objection to the petition, the matter shall be set for
 31 a hearing. If no objection is filed, the court may set the petition for
 32 a hearing or rule on the petition without a hearing.

33 (e) In considering whether to grant the petition, the juvenile court
 34 may review:

35 (1) the best interests of the child;

36 (2) the age of the person during the person's contact with the
 37 juvenile court or law enforcement agency;

38 (3) the nature of any allegations;

39 (4) whether there was an informal adjustment or an adjudication;

40 (5) the disposition of the case;

41 (6) the manner in which the person participated in any court
 42 ordered or supervised services;



- 1 (7) the time during which the person has been without contact
 2 with the juvenile court or with any law enforcement agency;
 3 (8) whether the person acquired a criminal record; and
 4 (9) the person's current status.

5 SECTION 10. IC 31-39-8-6 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. **(a) Subject to**
 7 **subsections (b) and (c), the records may shall be destroyed or given**
 8 **to the person to whom the records pertain. upon a grant of an**
 9 **expungement petition by the court.**

10 **(b) Data from the records in subsection (a) shall be maintained**
 11 **by the court on a secure data base that does not enable**
 12 **identification of the offender to the public or another person not**
 13 **having legal or statutory authority to access the records.**

14 **(c) The records maintained in the data base under subsection (b)**
 15 **may be used only for statistical analysis, research, and financial**
 16 **auditing purposes.**

17 SECTION 11. IC 35-31.5-2-178.5 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2017]: Sec. 178.5. **"Juvenile prostitution"**
 20 **means an act by a person less than eighteen (18) years of age that**
 21 **would be a crime described in IC 35-45-4-2(a) if committed by an**
 22 **individual at least eighteen (18) years of age.**

23 SECTION 12. IC 35-38-10 IS ADDED TO THE INDIANA CODE
 24 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2017]:

26 **Chapter 10. Convictions of Trafficked Persons**

27 **Sec. 1. As used in this chapter, "trafficked person" means a**
 28 **person who was the victim of human trafficking (IC 35-42-3.5), or**
 29 **a substantially similar human trafficking offense committed in**
 30 **another jurisdiction, regardless of whether the person who**
 31 **committed the human trafficking offense was charged, tried, or**
 32 **convicted.**

33 **Sec. 2. A person who committed an offense that did not result in**
 34 **bodily injury to another person is entitled to have the person's**
 35 **conviction vacated if the person proves by a preponderance of the**
 36 **evidence that:**

- 37 **(1) the person was a trafficked person at the time the person**
 38 **committed the offense;**
 39 **(2) the offense did not result in bodily injury to another**
 40 **person; and**
 41 **(3) at the time the person committed the offense, the person**
 42 **was:**



- 1 (A) coerced; or
 2 (B) under the control of;
 3 another person.

4 **Sec. 3. A person may bring an action to enforce the right**
 5 **described in section 2 of this chapter in accordance with the**
 6 **Indiana rules of postconviction relief.**

7 SECTION 13. IC 35-42-3.5-1, AS AMENDED BY P.L.13-2016,
 8 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2017]: Sec. 1. (a) A person who, by force, threat of force, or
 10 fraud, knowingly or intentionally recruits, harbors, or transports
 11 another person:

12 (1) to engage the other person in:

- 13 (A) forced labor; or
 14 (B) involuntary servitude; or

15 (2) to force the other person into:

- 16 (A) marriage;
 17 (B) prostitution; or
 18 (C) participating in sexual conduct (as defined by
 19 IC 35-42-4-4);

20 commits promotion of human trafficking, a Level 4 felony.

21 (b) A person who knowingly or intentionally recruits, harbors, or
 22 transports a child less than:

23 (1) eighteen (18) years of age with the intent of:

- 24 (A) engaging the child in:
 25 (i) forced labor; or
 26 (ii) involuntary servitude; or
 27 (B) inducing or causing the child to:

- 28 (i) engage in prostitution **or juvenile prostitution**; or
 29 (ii) engage in a performance or incident that includes sexual
 30 conduct in violation of IC 35-42-4-4(b) or IC 35-42-4-4(c)
 31 (child exploitation); or

32 (2) sixteen (16) years of age with the intent of inducing or causing
 33 the child to participate in sexual conduct (as defined by
 34 IC 35-42-4-4);

35 commits promotion of human trafficking of a minor, a Level 3 felony.
 36 Except as provided in subsection (e), it is not a defense to a prosecution
 37 under this subsection that the child consented to engage in prostitution
 38 **or juvenile prostitution** or to participate in sexual conduct.

39 (c) A person who is at least eighteen (18) years of age who
 40 knowingly or intentionally sells or transfers custody of a child less than
 41 eighteen (18) years of age for the purpose of prostitution, **juvenile**
 42 **prostitution**, or participating in sexual conduct (as defined by



- 1 IC 35-42-4-4) commits sexual trafficking of a minor, a Level 2 felony.
 2 (d) A person who knowingly or intentionally pays, offers to pay, or
 3 agrees to pay money or other property to another person for an
 4 individual who the person knows has been forced into:
 5 (1) forced labor;
 6 (2) involuntary servitude; or
 7 (3) prostitution **or juvenile prostitution**;
 8 commits human trafficking, a Level 5 felony.
 9 (e) It is a defense to a prosecution under subsection (b)(2) if:
 10 (1) the child is at least fourteen (14) years of age but less than
 11 sixteen (16) years of age and the person is less than eighteen (18)
 12 years of age; or
 13 (2) all the following apply:
 14 (A) The person is not more than four (4) years older than the
 15 victim.
 16 (B) The relationship between the person and the victim was a
 17 dating relationship or an ongoing personal relationship. The
 18 term "ongoing personal relationship" does not include a family
 19 relationship.
 20 (C) The crime:
 21 (i) was not committed by a person who is at least twenty-one
 22 (21) years of age;
 23 (ii) was not committed by using or threatening the use of
 24 deadly force;
 25 (iii) was not committed while armed with a deadly weapon;
 26 (iv) did not result in serious bodily injury;
 27 (v) was not facilitated by furnishing the victim, without the
 28 victim's knowledge, with a drug (as defined in
 29 IC 16-42-19-2(1)) or a controlled substance (as defined in
 30 IC 35-48-1-9) or knowing that the victim was furnished with
 31 the drug or controlled substance without the victim's
 32 knowledge; and
 33 (vi) was not committed by a person having a position of
 34 authority or substantial influence over the victim.
 35 (D) The person has not committed another sex offense (as
 36 defined in IC 11-8-8-5.2), including a delinquent act that
 37 would be a sex offense if committed by an adult, against any
 38 other person.
 39 SECTION 14. IC 35-45-1-5, AS ADDED BY P.L.59-2016,
 40 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2017]: Sec. 5. (a) As used in this section, "common nuisance"
 42 means a building, structure, vehicle, or other place that is used for (1)



- 1 or more of the following purposes:
- 2 (1) To buy an alcoholic beverage in violation of IC 7.1-5-10-5.
- 3 (2) To unlawfully use, keep, or sell a legend drug.
- 4 (3) To unlawfully:
- 5 (A) use;
- 6 (B) manufacture;
- 7 (C) keep;
- 8 (D) offer for sale;
- 9 (E) sell;
- 10 (F) deliver; or
- 11 (G) finance the delivery of;
- 12 a controlled substance or an item of drug paraphernalia (as
- 13 described in IC 35-48-4-8.5).
- 14 (4) To provide a location for a person to pay, offer to pay, or agree
- 15 to pay money or other property to another person for an individual
- 16 whom the person knows has been forced into:
- 17 (A) forced labor;
- 18 (B) involuntary servitude; or
- 19 (C) prostitution **or juvenile prostitution**.
- 20 (5) To provide a location for a person to commit a violation of
- 21 IC 35-42-3.5-1(a) through IC 35-42-3.5-1(d) (human trafficking).
- 22 (b) A person who knowingly or intentionally visits a common
- 23 nuisance described in subsections (a)(1) through (a)(4) commits
- 24 visiting a common nuisance. The offense is a:
- 25 (1) Class B misdemeanor if the common nuisance is used for the
- 26 unlawful:
- 27 (A) sale of an alcoholic beverage as set forth in subsection
- 28 (a)(1); ~~or~~
- 29 (B) use, keeping, or sale of a legend drug as set forth in
- 30 subsection (a)(2); or
- 31 (C) use, manufacture, keeping, offer for sale, sale, delivery, or
- 32 financing the delivery of a controlled substance or item of drug
- 33 paraphernalia (as described in IC 35-48-4-8.5), as set forth in
- 34 subsection (a)(3);
- 35 (2) Class A misdemeanor if:
- 36 (A) the common nuisance is used as a location for a person to
- 37 pay, offer to pay, or agree to pay for a person who has been
- 38 forced into forced labor, involuntary servitude, ~~or~~ prostitution,
- 39 **or juvenile prostitution** as set forth in subsection (a)(4); or
- 40 (B) the person knowingly, intentionally, or recklessly takes a
- 41 person less than eighteen (18) years of age or an endangered
- 42 adult (as defined in IC 12-10-3-2) into a common nuisance



- 1 used to unlawfully:
 2 (i) use;
 3 (ii) manufacture;
 4 (iii) keep;
 5 (iv) offer for sale;
 6 (v) sell;
 7 (vi) deliver; or
 8 (vii) finance the delivery of;
 9 a controlled substance or an item of drug paraphernalia, as set
 10 forth in subsection (a)(3); and
 11 (3) Level 6 felony if the person:
 12 (A) knowingly, intentionally, or recklessly takes a person less
 13 than eighteen (18) years of age or an endangered adult (as
 14 defined in IC 12-10-3-2) into a common nuisance used to
 15 unlawfully:
 16 (i) use;
 17 (ii) manufacture;
 18 (iii) keep;
 19 (iv) offer for sale;
 20 (v) sell;
 21 (vi) deliver; or
 22 (vii) finance the delivery of;
 23 a controlled substance or an item of drug paraphernalia, as set
 24 forth in subsection (a)(3); and
 25 (B) has a prior unrelated conviction for a violation of this
 26 section involving a controlled substance or drug paraphernalia.
 27 (c) A person who knowingly or intentionally maintains a common
 28 nuisance commits maintaining a common nuisance, a Level 6 felony.
 29 SECTION 15. IC 35-45-4-2, AS AMENDED BY P.L.23-2015,
 30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2017]: Sec. 2. (a) A person **at least eighteen (18) years of**
 32 **age** who knowingly or intentionally:
 33 (1) performs, or offers or agrees to perform, sexual intercourse or
 34 other sexual conduct (as defined in IC 35-31.5-2-221.5); or
 35 (2) fondles, or offers or agrees to fondle, the genitals of another
 36 person;
 37 for money or other property commits prostitution, a Class A
 38 misdemeanor. However, the offense is a Level 6 felony if the person
 39 has two (2) prior convictions under this section.
 40 (b) It is a defense to a prosecution under this section that the person
 41 was
 42 (†) a child (as defined in IC 35-47-10-3); and



1 (2) a victim or an alleged victim of an offense under
2 IC 35-42-3.5-1
3 at the time the person engaged in the prohibited conduct.
4 SECTION 16. IC 35-45-4-4, AS AMENDED BY P.L.158-2013,
5 SECTION 528, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) **As used in this section,**
7 **"juvenile prostitution victim" means a person less than eighteen**
8 **(18) years of age who engages in juvenile prostitution.**
9 (b) A person who:
10 (1) knowingly or intentionally entices or compels another person
11 to become a prostitute **or juvenile prostitution victim;**
12 (2) knowingly or intentionally procures, or offers or agrees to
13 procure, a person for another person for the purpose of
14 prostitution **or juvenile prostitution;**
15 (3) having control over the use of a place, knowingly or
16 intentionally permits another person to use the place for
17 prostitution **or juvenile prostitution;**
18 (4) receives money or other property from a prostitute **or juvenile**
19 **prostitution victim,** without lawful consideration, knowing it was
20 earned in whole or in part from prostitution **or juvenile**
21 **prostitution;** or
22 (5) knowingly or intentionally conducts or directs another person
23 to a place for the purpose of prostitution **or juvenile prostitution;**
24 commits promoting prostitution, a Level 5 felony. However, the offense
25 is a Level 4 felony under subdivision (1) if the person enticed or
26 compelled is ~~under~~ **less than** eighteen (18) years of age.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1218, 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 1, strike lines 11 through 12.

Page 1, line 13, strike "(4)" and insert "(3)".

Page 1, line 15, strike "(5)" and insert "(4)".

Page 1, line 17, strike "(6)" and insert "(5)".

Page 2, line 2, strike "(7)" and insert "(6)".

Page 2, line 6, strike "(8)" and insert "(7)".

Page 2, line 9, strike "(9)" and insert "(8)".

Page 2, line 12, delete "(10)" and insert "(9)".

Page 2, line 14, delete "(11)" and insert "(10)".

Page 2, line 18, delete "(12)" and insert "(11)".

Page 2, line 22, delete "(13)" and insert "(12)".

Page 2, line 39, strike "(a)(7)," and insert "(a)(6),".

Page 2, line 39, delete "(a)(10)," and insert "(a)(9),".

Page 2, line 39, delete "(a)(13)(A)" and insert "(a)(12)(A)".

Page 6, after line 17, begin a new paragraph and insert:

"SECTION 3. IC 31-30-2-1, AS AMENDED BY P.L.48-2012, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) Except as provided in subsections (b), ~~and~~ (c), **and (h)**, the juvenile court's jurisdiction over a delinquent child or a child in need of services and over the child's parent, guardian, or custodian continues until:

(1) the child becomes twenty-one (21) years of age, unless the court discharges the child and the child's parent, guardian, or custodian at an earlier time; or

(2) guardianship of the child is awarded to the department of correction.

(b) The juvenile court may, on its own motion, after guardianship of a child is awarded to the department of correction, reinstate the court's jurisdiction for the purpose of ordering the child's parent, guardian, or custodian to participate in programs operated by or through the department of correction.

(c) The juvenile court's jurisdiction over a parent or guardian of the estate of a child under this section continues until the parent or guardian of the estate has satisfied the financial obligation of the parent or guardian of the estate that is imposed under IC 31-40 (or IC 31-6-4-18 before its repeal).

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(d) Except as provided in subsection (g), the jurisdiction of the juvenile court over a proceeding described in IC 31-30-1-1(10) for a guardianship of the person continues until the earlier of the date that:

(1) the juvenile court terminates the guardianship of the person;

or

(2) the child becomes:

(A) nineteen (19) years of age, if a child who is at least eighteen (18) years of age is a full-time student in a secondary school or the equivalent level of vocational or career and technical education; or

(B) eighteen (18) years of age, if clause (A) does not apply.

If the guardianship of the person continues after the child becomes the age specified in subdivision (2), the juvenile court shall transfer the guardianship of the person proceedings to a court having probate jurisdiction in the county in which the guardian of the person resides. If the juvenile court has both juvenile and probate jurisdiction, the juvenile court may transfer the guardianship of the person proceedings to the probate docket of the court.

(e) The jurisdiction of the juvenile court to enter, modify, or enforce a support order under IC 31-40-1-5 continues during the time that the court retains jurisdiction over a guardianship of the person proceeding described in IC 31-30-1-1(10).

(f) At any time, a juvenile court may, with the consent of a probate court, transfer to the probate court guardianship of the person proceedings and any related support order initiated in the juvenile court.

(g) A juvenile court may retain jurisdiction over an older youth, as defined in IC 31-28-5.8-4, who is a recipient or beneficiary of:

(1) kinship guardianship assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 673), as amended; or

(2) other financial assistance provided to or for the benefit of a child who:

(A) was previously adjudicated as a child in need of services or delinquent child;

(B) is a protected person under a legal guardianship if IC 29-3-8-9(f) applies; and

(C) is approved for assistance under a rule or published policy of the department.

(h) Upon receipt of a motion under IC 31-37-22-11, the juvenile court may reinstate its jurisdiction to conduct a hearing and issue an appropriate order in accordance with IC 31-37-22-11.

SECTION 4. IC 31-37-22-1, AS AMENDED BY P.L.146-2008,



SECTION 659, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. **(a)** While the juvenile court retains jurisdiction under IC 31-30-2, the juvenile court may modify any dispositional decree:

- (1) upon the juvenile court's own motion;
- (2) upon the motion of:
 - (A) the child;
 - (B) the child's parent, guardian, custodian, or guardian ad litem;
 - (C) the probation officer; or
 - (D) the prosecuting attorney; or
- (3) upon the motion of any person providing services to the child or to the child's parent, guardian, or custodian under a decree of the court.

(b) Upon receipt of a motion under section 11 of this chapter, the juvenile court may reinstate its jurisdiction to conduct a hearing and issue an appropriate order in accordance with section 11 of this chapter.

SECTION 5. IC 31-37-22-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. **(a)** As used in this section, "trafficked child" means a child who was the victim of human trafficking (IC 35-42-3.5) or a substantially similar offense committed in another jurisdiction, regardless of whether the person who committed the human trafficking offense was charged, tried, or convicted. The term includes a person who is now an adult.

(b) Upon the written motion of a trafficked child, or any person acting on behalf of a trafficked child, the court that adjudicated the trafficked child a delinquent child shall vacate the adjudication issued with respect to the trafficked child, if the movant proves by a preponderance of the evidence that the child was a trafficked child at the time the child performed the delinquent act that resulted in the adjudication and the delinquent act was a result of human trafficking.

(c) Before vacating an adjudication under subsection (b), the court shall:

- (1) forward a copy of the motion to the prosecuting attorney; and**
- (2) conduct a hearing at which the prosecuting attorney and the movant are entitled to be heard.**

SECTION 6. IC 31-39-8-1.5 IS ADDED TO THE INDIANA CODE



AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 1.5. The juvenile court in the county of the original action has exclusive original jurisdiction over petitions to expunge records of a child alleged to be a delinquent child or a child in need of services.**

SECTION 7. IC 31-39-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. **(a)** Any person may petition a juvenile court at any time to remove from:

- (1) the court's files;
- (2) the files of law enforcement agencies; and
- (3) the files of any other person who has provided services to a child under a court order;

those records pertaining to the person's involvement in juvenile court proceedings.

(b) Under this section, electronic records shall be removed to a separate secure data base to which the public or another person not having legal or statutory authority to access the records is not granted access to the data base.

SECTION 8. IC 31-39-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. **(a)** A person may initiate a petition for the expungement of records of a child alleged to be a delinquent child or a child in need of services by filing a verified petition in the juvenile court in the county of the original action. The petition must set forth the following:

- (1) The allegations and date of adjudication, if applicable, of the juvenile delinquency or child in need of services adjudications.
- (2) The court in which juvenile delinquency or child in need of services allegations or petitions were filed.
- (3) The law enforcement agency that employs the charging officer, if known.
- (4) The case number or court cause number.
- (5) Date of birth of the petitioner.
- (6) Petitioner's Social Security number.
- (7) All juvenile delinquency or child in need of services adjudications and criminal convictions occurring after the adjudication of the action sought to be expunged.
- (8) All pending actions under IC 31-34 or IC 31-37 or criminal charges.

(b) A petition described in subsection (a) shall be served on:

- (1) the prosecuting attorney; or
- (2) in the case of a child in need of services case, the



department of child services.

(c) The prosecuting attorney or department of child services has thirty (30) days in which to reply or otherwise object to the petition. The court may reduce the time in which a response must be filed for a show of good cause or within its discretion after a hearing is held.

(d) If the prosecuting attorney or department of child services timely files an objection to the petition, the matter shall be set for a hearing. If no objection is filed, the court may set the petition for a hearing or rule on the petition without a hearing.

(e) In considering whether to grant the petition, the juvenile court may review:

- (1) the best interests of the child;
- (2) the age of the person during the person's contact with the juvenile court or law enforcement agency;
- (3) the nature of any allegations;
- (4) whether there was an informal adjustment or an adjudication;
- (5) the disposition of the case;
- (6) the manner in which the person participated in any court ordered or supervised services;
- (7) the time during which the person has been without contact with the juvenile court or with any law enforcement agency;
- (8) whether the person acquired a criminal record; and
- (9) the person's current status.

SECTION 9. IC 31-39-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) **Subject to subsections (b) and (c), the records may shall be destroyed or given to the person to whom the records pertain. upon a grant of an expungement petition by the court.**

(b) **Data from the records in subsection (a) shall be maintained by the court on a separate secure data base that does not enable identification of the offender to the public or another person not having legal or statutory authority to access the records.**

(c) **The records maintained in the data base under subsection (b)**



may be used only for statistical analysis, research, and financial auditing purposes."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1218 as introduced.)

WASHBURNE

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1218, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 17, delete "(6);" and insert "(5);".

Page 2, line 18, delete "Alternative" and insert "Alternatives".

Page 6, line 10, strike "and".

Page 6, line 12, delete "." and insert "; and

(6) funding a court appointed forensic advocate program (as described in IC 35-36-12) for persons who are on probation, are supervised by a community corrections program, or are participating in a pretrial diversion program."

Page 6, between lines 17 and 18, begin a new paragraph and insert: "SECTION 3. IC 31-9-2-133.1, AS ADDED BY P.L.46-2016, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 133.1. "Victim of human or sexual trafficking", for purposes of IC 31-34-1-3.5, refers to a child who is recruited, harbored, transported, or engaged in:

(1) forced labor;

(2) involuntary servitude;

(3) prostitution;

(4) juvenile prostitution, as defined in IC 35-31.5-2-178.5;

~~(4)~~ **(5) child exploitation, as defined in IC 35-42-4-4(b);**

~~(5)~~ **(6) marriage, unless authorized by a court under IC 31-11-1-6;**

or

~~(6)~~ **(7) trafficking for the purpose of prostitution, juvenile prostitution, or participation in sexual conduct as defined in**



IC 35-42-4-4(a)(4)."

Page 7, line 36, delete "may" and insert "**shall**".

Page 8, line 12, delete "may" and insert "**shall**".

Page 8, line 19, after "similar" insert "**human trafficking**".

Page 8, line 28, delete "that the child was a trafficked" and insert:
"that:

(1) the child was a trafficked child at the time the child performed the delinquent act that resulted in the adjudication;

(2) the delinquent act did not result in bodily injury to another person; and

(3) at the time the child committed the delinquent act, the child was:

(A) coerced by; or

(B) under the control of;

another person."

Page 8, delete lines 29 through 31.

Page 9, delete lines 2 through 14.

Page 10, line 22, delete "(a) Subject to".

Page 10, line 23, delete "subsections (b) and (c), the" and insert "The".

Page 10, delete lines 26 through 32.

Page 10, after line 32, begin a new paragraph and insert:

"SECTION 10. IC 35-31.5-2-178.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 178.5. "Juvenile prostitution" means an act by a person less than eighteen (18) years of age that would be a crime described in IC 35-45-4-2(a) if committed by an individual at least eighteen (18) years of age.**

SECTION 11. IC 35-38-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 10. Convictions of Trafficked Persons

Sec. 1. As used in this chapter, "trafficked person" means a person who was the victim of human trafficking (IC 35-42-3.5), or a substantially similar human trafficking offense committed in another jurisdiction, regardless of whether the person who committed the human trafficking offense was charged, tried, or convicted.

Sec. 2. A person who committed an offense that did not result in bodily injury to another person is entitled to have the person's conviction vacated if the person proves by a preponderance of the



evidence that:

- (1) the person was a trafficked person at the time the person committed the offense;
- (2) the offense did not result in bodily injury to another person; and
- (3) at the time the person committed the offense, the person was:
 - (A) coerced; or
 - (B) under the control of; another person.

Sec. 3. A person may bring an action to enforce the right described in section 2 of this chapter in accordance with the Indiana rules of postconviction relief.

SECTION 12. IC 35-42-3.5-1, AS AMENDED BY P.L.13-2016, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) A person who, by force, threat of force, or fraud, knowingly or intentionally recruits, harbors, or transports another person:

- (1) to engage the other person in:
 - (A) forced labor; or
 - (B) involuntary servitude; or
- (2) to force the other person into:
 - (A) marriage;
 - (B) prostitution; or
 - (C) participating in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking, a Level 4 felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:

- (1) eighteen (18) years of age with the intent of:
 - (A) engaging the child in:
 - (i) forced labor; or
 - (ii) involuntary servitude; or
 - (B) inducing or causing the child to:
 - (i) engage in prostitution **or juvenile prostitution**; or
 - (ii) engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) or IC 35-42-4-4(c) (child exploitation); or
- (2) sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor, a Level 3 felony.

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Except as provided in subsection (e), it is not a defense to a prosecution under this subsection that the child consented to engage in prostitution **or juvenile prostitution** or to participate in sexual conduct.

(c) A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution, **juvenile prostitution**, or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor, a Level 2 felony.

(d) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

- (1) forced labor;
- (2) involuntary servitude; or
- (3) prostitution **or juvenile prostitution**;

commits human trafficking, a Level 5 felony.

(e) It is a defense to a prosecution under subsection (b)(2) if:

- (1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or
- (2) all the following apply:

(A) The person is not more than four (4) years older than the victim.

(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(C) The crime:

(i) was not committed by a person who is at least twenty-one (21) years of age;

(ii) was not committed by using or threatening the use of deadly force;

(iii) was not committed while armed with a deadly weapon;

(iv) did not result in serious bodily injury;

(v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(vi) was not committed by a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as



defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

SECTION 13. IC 35-45-1-5, AS ADDED BY P.L.59-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) As used in this section, "common nuisance" means a building, structure, vehicle, or other place that is used for (1) or more of the following purposes:

- (1) To buy an alcoholic beverage in violation of IC 7.1-5-10-5.
- (2) To unlawfully use, keep, or sell a legend drug.
- (3) To unlawfully:
 - (A) use;
 - (B) manufacture;
 - (C) keep;
 - (D) offer for sale;
 - (E) sell;
 - (F) deliver; or
 - (G) finance the delivery of;

a controlled substance or an item of drug paraphernalia (as described in IC 35-48-4-8.5).

- (4) To provide a location for a person to pay, offer to pay, or agree to pay money or other property to another person for an individual whom the person knows has been forced into:

- (A) forced labor;
- (B) involuntary servitude; or
- (C) prostitution **or juvenile prostitution.**

- (5) To provide a location for a person to commit a violation of IC 35-42-3.5-1(a) through IC 35-42-3.5-1(d) (human trafficking).

(b) A person who knowingly or intentionally visits a common nuisance described in subsections (a)(1) through (a)(4) commits visiting a common nuisance. The offense is a:

- (1) Class B misdemeanor if the common nuisance is used for the unlawful:
 - (A) sale of an alcoholic beverage as set forth in subsection (a)(1); ~~or~~
 - (B) use, keeping, or sale of a legend drug as set forth in subsection (a)(2); or
 - (C) use, manufacture, keeping, offer for sale, sale, delivery, or financing the delivery of a controlled substance or item of drug paraphernalia (as described in IC 35-48-4-8.5), as set forth in subsection (a)(3);
- (2) Class A misdemeanor if:



(A) the common nuisance is used as a location for a person to pay, offer to pay, or agree to pay for a person who has been forced into forced labor, involuntary servitude, ~~or prostitution,~~
or juvenile prostitution as set forth in subsection (a)(4); or
 (B) the person knowingly, intentionally, or recklessly takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a common nuisance used to unlawfully:

- (i) use;
- (ii) manufacture;
- (iii) keep;
- (iv) offer for sale;
- (v) sell;
- (vi) deliver; or
- (vii) finance the delivery of;

a controlled substance or an item of drug paraphernalia, as set forth in subsection (a)(3); and

(3) Level 6 felony if the person:

(A) knowingly, intentionally, or recklessly takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a common nuisance used to unlawfully:

- (i) use;
- (ii) manufacture;
- (iii) keep;
- (iv) offer for sale;
- (v) sell;
- (vi) deliver; or
- (vii) finance the delivery of;

a controlled substance or an item of drug paraphernalia, as set forth in subsection (a)(3); and

(B) has a prior unrelated conviction for a violation of this section involving a controlled substance or drug paraphernalia.

(c) A person who knowingly or intentionally maintains a common nuisance commits maintaining a common nuisance, a Level 6 felony.

SECTION 14. IC 35-45-4-2, AS AMENDED BY P.L.23-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) A person **at least eighteen (18) years of age** who knowingly or intentionally:

- (1) performs, or offers or agrees to perform, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5); or
- (2) fondles, or offers or agrees to fondle, the genitals of another



person;
for money or other property commits prostitution, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has two (2) prior convictions under this section.

(b) It is a defense to a prosecution under this section that the person was

- (1) a child (as defined in IC 35-47-10-3); and
- (2) a victim or an alleged victim of an offense under IC 35-42-3.5-1

at the time the person engaged in the prohibited conduct.

SECTION 15. IC 35-45-4-4, AS AMENDED BY P.L.158-2013, SECTION 528, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) **As used in this section, "juvenile prostitution victim" means a person less than eighteen (18) years of age who engages in juvenile prostitution.**

(b) A person who:

- (1) knowingly or intentionally entices or compels another person to become a prostitute **or juvenile prostitution victim;**
 - (2) knowingly or intentionally procures, or offers or agrees to procure, a person for another person for the purpose of prostitution **or juvenile prostitution;**
 - (3) having control over the use of a place, knowingly or intentionally permits another person to use the place for prostitution **or juvenile prostitution;**
 - (4) receives money or other property from a prostitute **or juvenile prostitution victim**, without lawful consideration, knowing it was earned in whole or in part from prostitution **or juvenile prostitution;** or
 - (5) knowingly or intentionally conducts or directs another person to a place for the purpose of prostitution **or juvenile prostitution;**
- commits promoting prostitution, a Level 5 felony. However, the offense is a Level 4 felony under subdivision (1) if the person enticed or compelled is **under less than** eighteen (18) years of age."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1218 as printed February 10, 2017.)

YOUNG M, Chairperson

Committee Vote: Yeas 8, Nays 0.

EH 1218—LS 7117/DI 125



SENATE MOTION

Madam President: I move that Engrossed House Bill 1218 be amended to read as follows:

Page 9, between lines 27 and 28, begin a new paragraph and insert: "SECTION 8. IC 31-39-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. **(a)** Any person may petition a juvenile court at any time to remove from:

- (1) the court's files;
- (2) the files of law enforcement agencies; and
- (3) the files of any other person who has provided services to a child under a court order;

those records pertaining to the person's involvement in juvenile court proceedings.

(b) Under this section, electronic records shall be removed to a secure data base to which the public or another person not having legal or statutory authority to access the records is not granted access to the data base."

Page 10, line 35, delete "The" and insert "**(a) Subject to subsections (b) and (c), the**".

Page 10, between lines 37 and 38, begin a new paragraph and insert: "**(b) Data from the records in subsection (a) shall be maintained by the court on a secure data base that does not enable identification of the offender to the public or another person not having legal or statutory authority to access the records.**

(c) The records maintained in the data base under subsection (b) may be used only for statistical analysis, research, and financial auditing purposes."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1218 as printed March 31, 2017.)

HEAD

