

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1228

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 35-31.5-2-44.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 44.5. "Coach", for purposes of IC 35-42-4-7, has the meaning set forth in IC 35-42-4-7.**

SECTION 2. IC 35-31.5-2-80, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 80. "Custodian", for purposes of IC 35-42-4-7, has the meaning set forth in ~~IC 35-42-4-7(e)~~. **IC 35-42-4-7.**

SECTION 3. IC 35-31.5-2-197.5, AS ADDED BY P.L.208-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 197.5. "Mental health professional", for purposes of IC 35-42-4-7, has the meaning set forth in ~~IC 35-42-4-7(f)~~. **IC 35-42-4-7.**

SECTION 4. IC 35-31.5-2-200, AS AMENDED BY P.L.208-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 200. "Military recruiter", for purposes of IC 35-42-4-7, has the meaning set forth in ~~IC 35-42-4-7(g)~~. **IC 35-42-4-7.**

SECTION 5. IC 35-31.5-2-211, AS AMENDED BY P.L.208-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 211. "Nonpublic school", for purposes of

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IC 35-42-4-7, has the meaning set forth in ~~IC 35-42-4-7(h)~~.
IC 35-42-4-7.

SECTION 6. IC 35-31.5-2-248.5, AS ADDED BY P.L.208-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 248.5. "Professional relationship", for purposes of IC 35-42-4-7, has the meaning set forth in ~~IC 35-42-4-7(i)~~.
IC 35-42-4-7.

SECTION 7. IC 35-31.5-2-284, AS AMENDED BY P.L.208-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 284. "School corporation", for purposes of IC 35-42-4-7, has the meaning set forth in ~~IC 35-42-4-7(j)~~.
IC 35-42-4-7.

SECTION 8. IC 35-31.5-2-309, AS AMENDED BY P.L.208-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 309. "Special education cooperative", for purposes of IC 35-42-4-7, has the meaning set forth in ~~IC 35-42-4-7(k)~~.
IC 35-42-4-7.

SECTION 9. IC 35-31.5-2-313, AS AMENDED BY P.L.208-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 313. "Stepparent", for purposes of IC 35-42-4-7, has the meaning set forth in ~~IC 35-42-4-7(l)~~. **IC 35-42-4-7.**

SECTION 10. IC 35-31.5-2-355.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 355.5. "Workplace supervisor", for purposes of IC 35-42-4-7, has the meaning set forth in IC 35-42-4-7.**

SECTION 11. IC 35-31.5-2-358 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 358. "Youth sports organization", for purposes of IC 35-42-4-7, has the meaning set forth in IC 35-42-4-7.**

SECTION 12. IC 35-42-4-6, AS AMENDED BY P.L.168-2014, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) As used in this section, "solicit" means to command, authorize, urge, incite, request, **lure, entice**, or advise an individual:

- (1) in person;
- (2) by telephone or wireless device;
- (3) in writing;
- (4) by using a computer network (as defined in IC 35-43-2-3(a));
- (5) by advertisement of any kind; or
- (6) by any other means;



to perform an act described in subsection (b) or (c).

(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person, commits child solicitation, a Level 5 felony. However, the offense is a Level 4 felony if the person solicits the child or individual the person believes to be a child under fourteen (14) years of age to engage in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) and:

- (1) commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and travels to meet the child or individual the person believes to be a child; or
- (2) has a previous unrelated conviction for committing an offense under this section.

(c) A person at least twenty-one (21) years of age who knowingly or intentionally solicits a child at least fourteen (14) years of age but less than sixteen (16) years of age, or an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age, to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person, commits child solicitation, a Level 5 felony. However, the offense is a Level 4 felony if the person solicits the child or individual the person believes to be a child at least fourteen (14) but less than sixteen (16) years of age to engage in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5), and:

- (1) commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and travels to meet the child or individual the person believes to be a child; or
- (2) has a previous unrelated conviction for committing an offense under this section.

(d) In a prosecution under this section, including a prosecution for attempted solicitation, the state is not required to prove that the person solicited the child to engage in an act described in subsection (b) or (c) at some immediate time.

SECTION 13. IC 35-42-4-7, AS AMENDED BY P.L.40-2019, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.



(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "charter school" has the meaning set forth in IC 20-18-2-2.5.

(d) As used in this section, "child care worker" means a person who:

(1) provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility;

(2) is employed by a:

(A) school corporation;

(B) charter school;

(C) nonpublic school; or

(D) special education cooperative;

attended by a child who is the victim of a crime under this chapter; or

(3) is:

(A) affiliated with a:

(i) school corporation;

(ii) charter school;

(iii) nonpublic school; or

(iv) special education cooperative;

attended by a child who is the victim of a crime under this chapter, regardless of how or whether the person is compensated;

(B) in a position of trust in relation to a child who attends the school or cooperative;

(C) engaged in the provision of care or supervision to a child who attends the school or cooperative; and

(D) at least four (4) years older than the child who is the victim of a crime under this chapter.

The term does not include a student who attends the school or cooperative.

(e) As used in this section, "coach" means a person who:

(1) provides care, supervision, or instruction to a child within the scope of the person's employment in a youth sports organization;

(2) is employed by a youth sports organization attended by a child who is the victim of a crime under this chapter; or

(3) is:

(A) affiliated with a youth sports organization attended by a child who is the victim of a crime under this chapter, regardless of how or whether the person is compensated;

(B) in a position of trust in relation to a child who



- participates in the youth sports organization;**
- (C) engaged in the provision of care or supervision to a child who participates in the youth sports organization;**
- and**
- (D) at least four (4) years older than the child who is the victim of a crime under this chapter.**

This term includes a coach who is nonteaching or a volunteer.

~~(e)~~ **(f)** As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

~~(f)~~ **(g)** As used in this section, "mental health professional" means:

- (1) a mental health counselor licensed under IC 25-23.6-8.5;
- (2) a psychologist; or
- (3) a psychiatrist.

~~(g)~~ **(h)** As used in this section, "military recruiter" means a member of:

- (1) the United States Air Force;
- (2) the United States Army;
- (3) the United States Coast Guard;
- (4) the United States Marine Corps;
- (5) the United States Navy;
- (6) any reserve components of the military forces listed in subdivisions (1) through (5); or
- (7) the Indiana National Guard;

whose primary job function, classification, or specialty is recruiting individuals to enlist with an entity listed in subdivisions (1) through (7).

~~(h)~~ **(i)** As used in this section, "nonpublic school" has the meaning set forth in IC 20-18-2-12.

~~(i)~~ **(j)** For purposes of this section, a person has a "professional relationship" with a child if:

- (1) the person:
 - (A) has a license issued by the state or a political subdivision on the basis of the person's training and experience that authorizes the person to carry out a particular occupation; or
 - (B) is employed in a position in which counseling, supervising, instructing, or recruiting children forms a significant part of the employment; and
- (2) the person has a relationship with a child that is based on the person's employment or licensed status as described in subdivision (1).

The term includes a relationship between a child and a mental health professional or military recruiter. The term does not include a coworker



relationship between a child and a person described in subdivision (1)(B).

~~(j)~~ **(k)** As used in this section, "school corporation" has the meaning set forth in IC 20-18-2-16.

~~(k)~~ **(l)** As used in this section, "special education cooperative" has the meaning set forth in IC 20-35-5-1.

~~(l)~~ **(m)** As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.

(n) As used in this section, "workplace supervisor" means an individual who has authority over a child while the child is employed at the child's place of employment. The term includes a person who is responsible for determining the child's wages (including whether the child will receive a raise) or who otherwise has the authority to take an adverse employment action against the child.

(o) As used in this section, "youth sports organization" means an athletic or recreational program that is organized for:

- (1) competition against another team, club, or entity; or**
- (2) athletic instruction;**

predominantly for children less than eighteen (18) years of age.

~~(m)~~ **(p)** If a person who:

- (1) is at least eighteen (18) years of age; and
- (2) is the:

(A) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; ~~or~~

(B) child care worker for; **or**

(C) coach of;

a child less than eighteen (18) years of age;

engages with the child in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult, the person commits child seduction.

~~(n)~~ **(q)** A person who:

- (1) has or had a professional relationship with a child less than eighteen (18) years of age whom the person knows to be less than eighteen (18) years of age;
- (2) may exert undue influence on the child because of the person's current or previous professional relationship with the child; and
- (3) uses or exerts the person's professional relationship to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the child



with the intent to arouse or satisfy the sexual desires of the child or the person;
 commits child seduction.

~~(p)~~ **(r)** A law enforcement officer who:

- (1) is at least ~~five (5)~~ **four (4)** years older than a child who is less than eighteen (18) years of age;
- (2) has contact with the child while acting within the scope of the law enforcement officer's official duties with respect to the child; and
- (3) uses or exerts the law enforcement officer's professional relationship with the child to engage with the child in:
 - (A) sexual intercourse;
 - (B) other sexual conduct (as defined in IC 35-31.5-2-221.5); or
 - (C) any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the law enforcement officer;

commits child seduction.

~~(p)~~ **(s)** In determining whether a person used or exerted the person's professional relationship with the child to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the person under this section, the trier of fact may consider one (1) or more of the following:

- (1) The age difference between the person and the child.
- (2) Whether the person was in a position of trust with respect to the child.
- (3) Whether the person's conduct with the child violated any ethical obligations of the person's profession or occupation.
- (4) The authority that the person had over the child.
- (5) Whether the person exploited any particular vulnerability of the child.
- (6) Any other evidence relevant to the person's ability to exert undue influence over the child.

(t) This subsection does not apply to a workplace supervisor who had a dating relationship with the child before the child was employed at the place of employment. A workplace supervisor who:

- (1) is at least four (4) years older than a child who is less than eighteen (18) years of age;**
 - (2) supervises the child at the child's place of employment;**
- and**



(3) uses or exerts the workplace supervisor's supervisory relationship with the child to engage with the child in:

(A) sexual intercourse;

(B) other sexual conduct (as defined in IC 35-31.5-2-221.5);
or

(C) any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the workplace supervisor;

commits child seduction.

(u) In determining whether a workplace supervisor used or exerted the workplace supervisor's relationship with the child to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the workplace supervisor, the trier of fact may consider one (1) or more of the following:

(1) The age difference between the workplace supervisor and the child.

(2) Whether the workplace supervisor was in a position of trust with respect to the child.

(3) Whether the workplace supervisor suggested to the child that engaging or not engaging in sexual activity with the workplace supervisor would or could affect the child at the child's place of employment.

(4) The authority that the workplace supervisor had over the child.

(5) Whether the workplace supervisor exploited any particular vulnerability of the child.

(6) Any other evidence relevant to the workplace supervisor's ability to exert undue influence over the child.

(v) Child seduction under this section is:

(1) a Level 6 felony if the child is at least sixteen (16) years of age but less than eighteen (18) years of age and the person or law enforcement officer engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of:

(A) the child; or

(B) the person or law enforcement officer;

(2) a Level 5 felony if the child is at least sixteen (16) years of age but less than eighteen (18) years of age and the person or law enforcement officer engaged in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the child;

(3) a Level 5 felony if the child is at least fourteen (14) years of



age but less than sixteen (16) years of age and the person or law enforcement officer engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of:

(A) the child; or

(B) the person or law enforcement officer;

(4) a Level 4 felony if the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person or law enforcement officer engaged in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the child;

(5) a Level 3 felony if the child is thirteen (13) years of age or under and the person or law enforcement officer engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of:

(A) the child; or

(B) the person or law enforcement officer; and

(6) a Level 2 felony if the child is thirteen (13) years of age or under and the person or law enforcement officer engaged in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the child.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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