

# HOUSE BILL No. 1579

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-6-24; IC 31-30; IC 31-39-3-2; IC 35-50-2-17.

**Synopsis:** Juvenile waivers. Repeals the direct filing of certain juvenile offenses in adult court. Raises the age requirement for the waiver of certain juvenile offenses. Allows a juvenile court to waive jurisdiction of certain crimes to adult court. (Current law requires a juvenile court to waive jurisdiction in certain circumstances.) Modifies the age parameters involving cases that a juvenile court may waive to adult court.

**Effective:** July 1, 2021.

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## Hatcher

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

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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. 1579

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

1 SECTION 1. IC 5-2-6-24, AS AMENDED BY P.L.142-2018,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 24. (a) As used in this section, "criminal code  
4 reform" refers to statutory provisions relating to criminal law enacted  
5 by P.L.158-2013 and HEA 1006-2014.

6 (b) The institute shall monitor and evaluate criminal code reform as  
7 described in this section.

8 (c) The institute shall annually gather data and analyze the impact  
9 of criminal code reform on:

10 (1) local units of government;

11 (2) the department of correction; and

12 (3) the office of judicial administration.

13 (d) The institute shall prepare an annual report, in conjunction with  
14 the justice reinvestment advisory council (established by  
15 IC 33-38-9.5-2), containing the results of its analysis before December  
16 1 of each year. The report shall be provided to the governor, the chief  
17 justice, and the legislative council. The report provided to the



legislative council must be in an electronic format under IC 5-14-6.

(e) The report required under this section must:

(1) include an analysis of:

(A) the effect of criminal code reform on:

(i) county jails;

(ii) community corrections programs;

(iii) probation departments; and

(iv) courts;

(B) recidivism rates;

(C) reentry court programs; and

(D) data relevant to the availability and effectiveness of mental health and addiction programs for persons who are at risk of entering the criminal justice system, who are in the criminal justice system, and who have left the criminal justice system;

(2) track the number of requests for sentence modification that are set for hearing by the court, including the relief granted by the court, if any. The report must include whether the grant or denial of a request for sentence modification was discretionary or mandatory, and whether the prosecuting attorney opposed the request for sentence modification, agreed to the request for sentence modification, or took no position on the request for sentence modification;

(3) track, by age and offense, the number of juveniles under the jurisdiction of an adult court due to

~~(A) lack of jurisdiction under IC 31-30-1-4; or~~

~~(B) waiver of jurisdiction under IC 31-30-3-2 through IC 31-30-3-6; and~~

~~(4) track the number of juveniles under the jurisdiction of adult court due to a juvenile court not having jurisdiction of the cases in accordance with IC 31-30-1-4; by:~~

~~(A) age;~~

~~(B) sex;~~

~~(C) race;~~

~~(D) county of prosecution;~~

~~(E) offenses charged;~~

~~(F) convictions received; and~~

~~(G) sentences received; and~~

~~(5) (4) track the number of waivers of juvenile court jurisdiction granted under IC 31-30-3-2 through IC 31-30-3-6 by:~~

~~(A) age;~~

~~(B) sex;~~

~~(C) race;~~



(D) charges filed in juvenile court in which a waiver was sought;

(E) charges filed in adult court following the waiver of juvenile court jurisdiction;

(F) county of prosecution;

(G) convictions received; and

(H) sentences received.

(f) All local units of government and local elected officials, including sheriffs, prosecuting attorneys, judges, and county fiscal bodies, shall cooperate with the institute by providing data as requested by the institute.

(g) State agencies, including the department of correction, the Indiana prosecuting attorneys council, the Indiana public defender council, and the office of judicial administration, shall assist the institute by providing requested data in a timely manner.

(h) Based on their analysis, the institute and the justice reinvestment advisory council shall include recommendations to improve the criminal justice system in Indiana, with particular emphasis being placed on recommendations that relate to sentencing policies and reform.

(i) The institute and the justice reinvestment advisory council shall include research data relevant to their analysis and recommendations in the report.

(j) The institute shall:

(1) make the data collected under subsection (e)(4) and (e)(5) available to the public in an annual report, by fiscal year, due by October 30 of each year;

(2) post the annual report required by subdivision (1) on the institute's Internet web site; and

(3) provide a copy of the annual report required by subdivision (1) to the commission on improving the status of children in Indiana established by IC 2-5-36-3.

SECTION 2. IC 31-30-1-4 IS REPEALED [EFFECTIVE JULY 1, 2021]. See: 4. (a) ~~The juvenile court does not have jurisdiction over an individual for an alleged violation of:~~

~~(1) IC 35-41-5-1(a) (attempted murder);~~

~~(2) IC 35-42-1-1 (murder);~~

~~(3) IC 35-42-3-2 (kidnapping);~~

~~(4) IC 35-42-4-1 (rape);~~

~~(5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);~~

~~(6) IC 35-42-5-1 (robbery) if:~~

~~(A) the robbery was committed while armed with a deadly~~



1           weapon; or

2           (B) the robbery results in bodily injury or serious bodily  
3           injury;

4           (7) IC 35-42-5-2 (carjacking) (before its repeal);

5           (8) IC 35-47-2-1 (carrying a handgun without a license); if  
6           charged as a felony;

7           (9) IC 35-47-10 (children and firearms); if charged as a felony; or

8           (10) any offense that may be joined under IC 35-34-1-9(a)(2) with  
9           any crime listed in this subsection;

10          if the individual was at least sixteen (16) years of age but less than  
11          eighteen (18) years of age at the time of the alleged violation.

12          (b) Once an individual described in subsection (a) has been charged  
13          with any offense listed in subsection (a), the court having adult  
14          criminal jurisdiction shall retain jurisdiction over the case if the  
15          individual pleads guilty to or is convicted of any offense listed in  
16          subsection (a)(1) through (a)(9):

17          (c) If:

18           (1) an individual described in subsection (a) is charged with one  
19           (1) or more offenses listed in subsection (a);

20           (2) all the charges under subsection (a)(1) through (a)(9) resulted  
21           in an acquittal or were dismissed; and

22           (3) the individual pleads guilty to or is convicted of any offense  
23           other than an offense listed in subsection (a)(1) through (a)(9);

24          the court having adult criminal jurisdiction may withhold judgment and  
25          transfer jurisdiction to the juvenile court for adjudication and  
26          disposition. In determining whether to transfer jurisdiction to the  
27          juvenile court for adjudication and disposition, the court having adult  
28          criminal jurisdiction shall consider whether there are appropriate  
29          services available in the juvenile justice system; whether the child is  
30          amenable to rehabilitation under the juvenile justice system; and  
31          whether it is in the best interests of the safety and welfare of the  
32          community that the child be transferred to juvenile court. All orders  
33          concerning release conditions remain in effect until a juvenile court  
34          detention hearing, which must be held not later than forty-eight (48)  
35          hours, excluding Saturdays, Sundays, and legal holidays, after the order  
36          of transfer of jurisdiction.

37          SECTION 3. IC 31-30-3-2, AS AMENDED BY P.L.67-2008,  
38          SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
39          JULY 1, 2021]: Sec. 2. Upon motion of the prosecuting attorney and  
40          after full investigation and hearing, the juvenile court may waive  
41          jurisdiction if it finds that:

42           (1) the child is charged with an act that is a felony:



- 1 (A) that is heinous or aggravated, with greater weight given to
- 2 acts against the person than to acts against property; or
- 3 (B) that is a part of a repetitive pattern of delinquent acts, even
- 4 though less serious;
- 5 (2) the child was at least ~~fourteen (14)~~ **sixteen (16)** years of age
- 6 when the act charged was allegedly committed;
- 7 (3) there is probable cause to believe that the child committed the
- 8 act;
- 9 (4) the child is beyond rehabilitation under the juvenile justice
- 10 system; and
- 11 (5) it is in the best interests of the safety and welfare of the
- 12 community that the child stand trial as an adult.

13 SECTION 4. IC 31-30-3-4, AS AMENDED BY P.L.187-2015,  
 14 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2021]: Sec. 4. Upon motion of the prosecuting attorney and  
 16 after full investigation and hearing, the juvenile court ~~shall~~ **may** waive  
 17 jurisdiction if it finds that:

- 18 (1) the child is charged with an act that would be murder if
- 19 committed by an adult;
- 20 (2) there is probable cause to believe that the child has committed
- 21 the act; ~~and~~
- 22 (3) the child was at least ~~twelve (12)~~ **fourteen (14)** years of age
- 23 when the act charged was allegedly committed; **and**
- 24 (4) ~~unless it would be~~ **is** in the best interests of the ~~child and of~~  
 25 ~~the~~ safety and welfare of the community **for that** the child ~~to~~  
 26 ~~remain within the juvenile justice system.~~ **stand trial as an adult.**

27 SECTION 5. IC 31-30-3-5, AS AMENDED BY P.L.158-2013,  
 28 SECTION 316, IS AMENDED TO READ AS FOLLOWS  
 29 [EFFECTIVE JULY 1, 2021]: Sec. 5. ~~Except for those cases in which~~  
 30 ~~the juvenile court has no jurisdiction in accordance with IC 31-30-1-4,~~  
 31 The court ~~shall,~~ **may**, upon motion of the prosecuting attorney and after  
 32 full investigation and hearing, waive jurisdiction if it finds that:

- 33 (1) the child is charged with an act that, if committed by an adult,
- 34 would be:
- 35 **(A) murder;**
- 36 ~~(A)~~ **(B)** a Level 1 felony, Level 2 felony, Level 3 felony, or
- 37 Level 4 felony, except a felony defined by IC 35-48-4;
- 38 ~~(B)~~ **(C)** involuntary manslaughter as a Level 5 felony under
- 39 IC 35-42-1-4; or
- 40 ~~(C)~~ **(D)** reckless homicide as a Level 5 felony under
- 41 IC 35-42-1-5;
- 42 (2) there is probable cause to believe that the child has committed



the act; ~~and~~

(3) the child was at least sixteen (16) years of age when the act charged was allegedly committed; ~~and~~

~~(4) unless it would be~~ **is** in the best interests of the ~~child and of~~ the safety and welfare of the community ~~for that~~ the child to ~~remain within the juvenile justice system.~~ **stand trial as an adult.**

SECTION 6. IC 31-30-4-1, AS ADDED BY P.L.104-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. This chapter applies to ~~the following~~:

~~(1) an offender who:~~

~~(A) (1)~~ is less than eighteen (18) years of age;

~~(B) (2)~~ has been waived to a court with criminal jurisdiction under IC 31-30-3; and

~~(C) (3)~~ is charged as an adult offender.

~~(2) An offender who:~~

~~(A) is less than eighteen (18) years of age; and~~

~~(B) does not come under the jurisdiction of a juvenile court because the offender is charged with an offense listed in~~

~~IC 31-30-1-4.~~

SECTION 7. IC 31-30-4-2, AS AMENDED BY P.L.168-2014, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) Subject to subsection (c), if:

~~(1) an offender is:~~

~~(A) (1)~~ less than eighteen (18) years of age;

~~(B) (2)~~ waived to a court with criminal jurisdiction under IC 31-30-3 because the offender committed an act that would be a felony if committed by an adult; and

~~(C) (3)~~ convicted of committing the felony or enters a plea of guilty to committing the felony; ~~or~~

~~(2) an offender is:~~

~~(A) less than eighteen (18) years of age;~~

~~(B) charged with a felony over which a juvenile court does not have jurisdiction under IC 31-30-1-4; and~~

~~(C) convicted of committing the felony by a court with criminal jurisdiction or enters a plea of guilty to committing the felony with the court;~~

the court may, upon its own motion, a motion of the prosecuting attorney, or a motion of the offender's legal representative, impose a sentence upon the conviction of the offender under this chapter.

(b) If a court elects to impose a sentence upon conviction of an offender under subsection (a) and, before the offender is sentenced, the department of correction determines that there is space available for the



offender in a juvenile facility of the division of youth services of the department, the sentencing court may:

(1) impose an appropriate criminal sentence on the offender under IC 35-50-2;

(2) suspend the criminal sentence imposed, notwithstanding IC 35-50-2-2 (before its repeal), IC 35-50-2-2.1, and IC 35-50-2-2.2;

(3) order the offender to be placed into the custody of the department of correction to be placed in the juvenile facility of the division of youth services; and

(4) provide that the successful completion of the placement of the offender in the juvenile facility is a condition of the suspended criminal sentence.

(c) The court may not impose a sentence on an offender under subsection (a) until:

(1) the prosecuting attorney has notified the victim of the felony of the possible imposition of a sentence on the offender under this chapter; and

(2) either:

(A) the probation department of the court has conducted a presentence investigation concerning the offender and reported its findings to the court; or

(B) the department of correction has conducted a diagnostic evaluation of the offender and reported its findings to the court.

SECTION 8. IC 31-30-4-5, AS AMENDED BY P.L.168-2014, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5. (a) At the request of a sentencing court, the department of correction shall provide a progress report to the sentencing court concerning an offender sentenced and placed in a juvenile facility under section 2(b) of this chapter. When the offender becomes eighteen (18) years of age:

(1) the department shall notify the sentencing court; and

(2) the sentencing court shall hold a review hearing concerning the offender before the offender becomes nineteen (19) years of age.

(b) ~~Except as provided in subsection (c);~~ After a hearing conducted under subsection (a), the sentencing court may:

(1) continue the offender's placement in a juvenile facility until the objectives of the sentence imposed on the offender have been met, if the sentencing court finds that the objectives of the sentence imposed on the offender have not been met;





(2) discharge the offender if the sentencing court finds that the objectives of the sentence imposed on the offender have been met;

(3) order execution of all or part of the offender's suspended criminal sentence in an adult facility of the department of correction; or

(4) place the offender:

(A) in home detention under IC 35-38-2.5;

(B) in a community corrections program under IC 35-38-2.6;

(C) on probation under IC 35-50-7; or

(D) in any other appropriate alternative sentencing program.

(e) ~~This subsection applies to an offender over whom a juvenile court lacks jurisdiction under IC 31-30-1-4 who is convicted of one (1) or more of the following offenses:~~

~~(1) Murder (IC 35-42-1-1);~~

~~(2) Attempted murder (IC 35-41-5-1);~~

~~(3) Kidnapping (IC 35-42-3-2);~~

~~(4) Rape as a Class A felony (for a crime committed before July 1, 2014) or a Level 1 felony (for a crime committed after June 30, 2014) (IC 35-42-4-1(b));~~

~~(5) Criminal deviate conduct as a Class A felony (IC 35-42-4-2(b)) (before its repeal);~~

~~(6) Robbery as a Class A felony (for a crime committed before July 1, 2014) or a Level 2 felony (for a crime committed after June 30, 2014) (IC 35-42-5-1); if:~~

~~(A) the offense was committed while armed with a deadly weapon; and~~

~~(B) the offense resulted in bodily injury to any person other than a defendant.~~

~~The court may not modify the original sentence of an offender to whom this subsection applies if the prosecuting attorney objects in writing to the modification. The prosecuting attorney shall set forth in writing the prosecuting attorney's reasons for objecting to the sentence modification.~~

SECTION 9. IC 31-39-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. The following information contained in records involving allegations of delinquency that would be a crime if committed by an adult is considered public information:

(1) The nature of the offense allegedly committed and the circumstances immediately surrounding the alleged offense, including the time, location, and property involved.



- (2) The identity of any victim.
- (3) A description of the method of apprehension.
- (4) Any instrument of physical force used.
- (5) The identity of any officers assigned to the investigation, except for the undercover units.
- (6) The age and sex of any child apprehended or sought for the alleged commission of the offense.
- (7) The identity of a child, if the child is apprehended or sought for the alleged commission of:
  - (A) an offense over which a juvenile court does not have jurisdiction under IC 31-30-1-2; ~~and IC 31-30-1-4;~~ or
  - (B) an act specified under IC 31-30-3-3.

SECTION 10. IC 35-50-2-17, AS ADDED BY P.L.104-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 17. Notwithstanding any other provision of this chapter, if

- (~~1~~) an offender is:
  - ~~(A) (1) less than eighteen (18) years of age;~~
  - ~~(B) (2) waived to a court with criminal jurisdiction under IC 31-30-3 because the offender committed an act that would be a felony if committed by an adult; and~~
  - ~~(C) (3) convicted of committing the felony or enters a plea of guilty to committing the felony; or~~
- (2) an offender is:
  - (A) less than eighteen (18) years of age;
  - (B) charged with a felony over which a juvenile court does not have jurisdiction under IC 31-30-1-4; and
  - (C) convicted of committing the felony by a court with criminal jurisdiction or enters a plea of guilty to committing the felony with the court;

the court may impose a sentence upon the conviction of the offender under IC 31-30-4 concerning sentencing alternatives for certain offenders under criminal court jurisdiction.

