



January 7, 2016

SENATE BILL No. 14

DIGEST OF SB 14 (Updated January 5, 2016 4:52 pm - DI 106)

Citations Affected: IC 4-13; IC 10-13; IC 11-8; IC 20-28; IC 22-5; IC 31-14; IC 33-37; IC 33-39; IC 35-36; IC 35-38; IC 35-42; IC 35-50.

Synopsis: Child exploitation and child pornography. Makes the offense of child exploitation a Level 4 felony instead of a Level 5 felony if the offense involves, depicts, or describes a child less than 18 years of age who: (1) engages in bestiality; (2) is mentally disabled or deficient; (3) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force; (4) physically or verbally resists participating in the sexual conduct, matter, performance, or incident; (5) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or (6) is less than 12 years of age. Makes the offense of possession of child pornography a Level 5 felony instead of a Level 6 felony if the offense involves, depicts, or describes sexual conduct by a child who the defendant knows is less than 18 years of age, or who appears to be less than 18 years of age, who: (1) engages in bestiality; (2) is mentally disabled or deficient; (3) participates in the sexual conduct by use of force or the threat of force; (4) physically or verbally resists participating in the sexual conduct; (5) receives a bodily injury while participating in the sexual conduct; or is less than 12 years of age. Adds the crime of child exploitation to the definition of "crime of violence" for purposes of the law concerning a court's determination whether terms of imprisonment should be served concurrently or consecutively. (A person who commits a "crime of violence" may receive a longer sentence.) Makes conforming amendments.

Effective: July 1, 2016.

Head, Young R Michael

January 5, 2016, read first time and referred to Committee on Corrections & Criminal Law.
January 6, 2016, amended, reported favorably — Do Pass.

SB 14—LS 6092/DI 69



January 7, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 14

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

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

- 1 SECTION 1. IC 4-13-2-14.7, AS AMENDED BY P.L.168-2014,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 14.7. A person employed, appointed, or under
4 contract with a state agency, who works with or around children, shall
5 be dismissed (after the appropriate pre-deprivation procedure has
6 occurred) if that person is, or has ever been, convicted of any of the
7 following:
- 8 (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
9 years of age.
 - 10 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal), if
11 the victim is less than eighteen (18) years of age.
 - 12 (3) Child molesting (IC 35-42-4-3).
 - 13 (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
 - 14 (5) Vicarious sexual gratification (IC 35-42-4-5).
 - 15 (6) Child solicitation (IC 35-42-4-6).
 - 16 (7) Child seduction (IC 35-42-4-7).
 - 17 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A

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1 or Class B felony (for a crime committed before July 1, 2014) or
 2 a Level 1, Level 2, or Level 4 felony (for a crime committed after
 3 June 30, 2014).

4 (9) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)
 5 years of age.

6 SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.214-2013,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2016]: Sec. 27. (a) Except as provided in subsection (b), on
 9 request, a law enforcement agency shall release a limited criminal
 10 history to or allow inspection of a limited criminal history by
 11 noncriminal justice organizations or individuals only if the subject of
 12 the request:

13 (1) has applied for employment with a noncriminal justice
 14 organization or individual;

15 (2) has:

16 (A) applied for a license or is maintaining a license; and

17 (B) provided criminal history data as required by law to be
 18 provided in connection with the license;

19 (3) is a candidate for public office or a public official;

20 (4) is in the process of being apprehended by a law enforcement
 21 agency;

22 (5) is placed under arrest for the alleged commission of a crime;

23 (6) has charged that the subject's rights have been abused
 24 repeatedly by criminal justice agencies;

25 (7) is the subject of a judicial decision or determination with
 26 respect to the setting of bond, plea bargaining, sentencing, or
 27 probation;

28 (8) has volunteered services that involve contact with, care of, or
 29 supervision over a child who is being placed, matched, or
 30 monitored by a social services agency or a nonprofit corporation;

31 (9) is currently residing in a location designated by the
 32 department of child services (established by IC 31-25-1-1) or by
 33 a juvenile court as the out-of-home placement for a child at the
 34 time the child will reside in the location;

35 (10) has volunteered services at a public school (as defined in
 36 IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12)
 37 that involve contact with, care of, or supervision over a student
 38 enrolled in the school;

39 (11) is being investigated for welfare fraud by an investigator of
 40 the division of family resources or a county office of the division
 41 of family resources;

42 (12) is being sought by the parent locator service of the child



1 support bureau of the department of child services;
 2 (13) is or was required to register as a sex or violent offender
 3 under IC 11-8-8;

4 (14) has been convicted of any of the following:

5 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen
 6 (18) years of age.

7 (B) Criminal deviate conduct (IC 35-42-4-2) (repealed), if the
 8 victim is less than eighteen (18) years of age.

9 (C) Child molesting (IC 35-42-4-3).

10 (D) Child exploitation (IC 35-42-4-4(b) or **IC 35-42-4-4(c)**).

11 (E) Possession of child pornography (~~IC 35-42-4-4(e)~~);
 12 **IC 35-42-4-4(d) or IC 35-42-4-4(e)**.

13 (F) Vicarious sexual gratification (IC 35-42-4-5).

14 (G) Child solicitation (IC 35-42-4-6).

15 (H) Child seduction (IC 35-42-4-7).

16 (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

17 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen
 18 (18) years of age.

19 (K) Attempt under IC 35-41-5-1 to commit an offense listed in
 20 clauses (A) through (J).

21 (L) Conspiracy under IC 35-41-5-2 to commit an offense listed
 22 in clauses (A) through (J).

23 (M) An offense in any other jurisdiction in which the elements
 24 of the offense for which the conviction was entered are
 25 substantially similar to the elements of an offense described
 26 under clauses (A) through (J);

27 (15) is identified as a possible perpetrator of child abuse or
 28 neglect in an assessment conducted by the department of child
 29 services under IC 31-33-8; or

30 (16) is:

31 (A) a parent, guardian, or custodian of a child; or

32 (B) an individual who is at least eighteen (18) years of age and
 33 resides in the home of the parent, guardian, or custodian;

34 with whom the department of child services or a county probation
 35 department has a case plan, dispositional decree, or permanency
 36 plan approved under IC 31-34 or IC 31-37 that provides for
 37 reunification following an out-of-home placement.

38 However, limited criminal history information obtained from the
 39 National Crime Information Center may not be released under this
 40 section except to the extent permitted by the Attorney General of the
 41 United States.

42 (b) A law enforcement agency shall allow inspection of a limited



1 criminal history by and release a limited criminal history to the
2 following noncriminal justice organizations:

- 3 (1) Federally chartered or insured banking institutions.
4 (2) Officials of state and local government for any of the
5 following purposes:
6 (A) Employment with a state or local governmental entity.
7 (B) Licensing.
8 (3) Segments of the securities industry identified under 15 U.S.C.
9 78q(f)(2).

10 (c) Any person who knowingly or intentionally uses limited criminal
11 history for any purpose not specified under this section commits a
12 Class A misdemeanor.

13 SECTION 3. IC 11-8-8-4.5, AS AMENDED BY P.L.168-2014,
14 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2016]: Sec. 4.5. (a) Except as provided in section 22 of this
16 chapter, as used in this chapter, "sex offender" means a person
17 convicted of any of the following offenses:

- 18 (1) Rape (IC 35-42-4-1).
19 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
20 (3) Child molesting (IC 35-42-4-3).
21 (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
22 (5) Vicarious sexual gratification (including performing sexual
23 conduct in the presence of a minor) (IC 35-42-4-5).
24 (6) Child solicitation (IC 35-42-4-6).
25 (7) Child seduction (IC 35-42-4-7).
26 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
27 Class B, or Class C felony (for a crime committed before July 1,
28 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
29 crime committed after June 30, 2014), unless:
30 (A) the person is convicted of sexual misconduct with a minor
31 as a Class C felony (for a crime committed before July 1,
32 2014) or a Level 5 felony (for a crime committed after June
33 30, 2014);
34 (B) the person is not more than:
35 (i) four (4) years older than the victim if the offense was
36 committed after June 30, 2007; or
37 (ii) five (5) years older than the victim if the offense was
38 committed before July 1, 2007; and
39 (C) the sentencing court finds that the person should not be
40 required to register as a sex offender.
41 (9) Incest (IC 35-46-1-3).
42 (10) Sexual battery (IC 35-42-4-8).



- 1 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 2 (18) years of age, and the person who kidnapped the victim is not
 3 the victim's parent or guardian.
 4 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 5 than eighteen (18) years of age, and the person who confined or
 6 removed the victim is not the victim's parent or guardian.
 7 (13) Possession of child pornography (~~IC 35-42-4-4(c)~~):
 8 **(IC 35-42-4-4(d) or IC 35-42-4-4(e)).**
 9 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
 10 (for a crime committed before July 1, 2014) or a Level 4 felony
 11 (for a crime committed after June 30, 2014).
 12 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
 13 victim is less than eighteen (18) years of age.
 14 (16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
 15 (17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less
 16 than eighteen (18) years of age.
 17 (18) Sexual misconduct by a service provider with a detained or
 18 supervised child (IC 35-44.1-3-10(c)).
 19 (19) An attempt or conspiracy to commit a crime listed in
 20 subdivisions (1) through (18).
 21 (20) A crime under the laws of another jurisdiction, including a
 22 military court, that is substantially equivalent to any of the
 23 offenses listed in subdivisions (1) through (19).
 24 (b) The term includes:
 25 (1) a person who is required to register as a sex offender in any
 26 jurisdiction; and
 27 (2) a child who has committed a delinquent act and who:
 28 (A) is at least fourteen (14) years of age;
 29 (B) is on probation, is on parole, is discharged from a facility
 30 by the department of correction, is discharged from a secure
 31 private facility (as defined in IC 31-9-2-115), or is discharged
 32 from a juvenile detention facility as a result of an adjudication
 33 as a delinquent child for an act that would be an offense
 34 described in subsection (a) if committed by an adult; and
 35 (C) is found by a court by clear and convincing evidence to be
 36 likely to repeat an act that would be an offense described in
 37 subsection (a) if committed by an adult.
 38 (c) In making a determination under subsection (b)(2)(C), the court
 39 shall consider expert testimony concerning whether a child is likely to
 40 repeat an act that would be an offense described in subsection (a) if
 41 committed by an adult.
 42 SECTION 4. IC 11-8-8-5, AS AMENDED BY P.L.168-2014,



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

- 5 (1) Rape (IC 35-42-4-1).
 6 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 7 (3) Child molesting (IC 35-42-4-3).
 8 (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
 9 (5) Vicarious sexual gratification (including performing sexual
 10 conduct in the presence of a minor) (IC 35-42-4-5).
 11 (6) Child solicitation (IC 35-42-4-6).
 12 (7) Child seduction (IC 35-42-4-7).
 13 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
 14 Class B, or Class C felony (for a crime committed before July 1,
 15 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
 16 crime committed after June 30, 2014), unless:
 17 (A) the person is convicted of sexual misconduct with a minor
 18 as a Class C felony (for a crime committed before July 1,
 19 2014) or a Level 5 felony (for a crime committed after June
 20 30, 2014);
 21 (B) the person is not more than:
 22 (i) four (4) years older than the victim if the offense was
 23 committed after June 30, 2007; or
 24 (ii) five (5) years older than the victim if the offense was
 25 committed before July 1, 2007; and
 26 (C) the sentencing court finds that the person should not be
 27 required to register as a sex offender.
 28 (9) Incest (IC 35-46-1-3).
 29 (10) Sexual battery (IC 35-42-4-8).
 30 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 31 (18) years of age, and the person who kidnapped the victim is not
 32 the victim's parent or guardian.
 33 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 34 than eighteen (18) years of age, and the person who confined or
 35 removed the victim is not the victim's parent or guardian.
 36 (13) Possession of child pornography (~~IC 35-42-4-4(c)~~).
 37 **(IC 35-42-4-4(d) or IC 35-42-4-4(e))**.
 38 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
 39 (for a crime committed before July 1, 2014) or a Level 4 felony
 40 (for a crime committed after June 30, 2014).
 41 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
 42 victim is less than eighteen (18) years of age.



- 1 (16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
 2 (17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less
 3 than eighteen (18) years of age.
 4 (18) Murder (IC 35-42-1-1).
 5 (19) Voluntary manslaughter (IC 35-42-1-3).
 6 (20) Sexual misconduct by a service provider with a detained or
 7 supervised child (IC 35-44.1-3-10(c)).
 8 (21) An attempt or conspiracy to commit a crime listed in
 9 subdivisions (1) through (20).
 10 (22) A crime under the laws of another jurisdiction, including a
 11 military court, that is substantially equivalent to any of the
 12 offenses listed in subdivisions (1) through (21).
 13 (b) The term includes:
 14 (1) a person who is required to register as a sex or violent
 15 offender in any jurisdiction; and
 16 (2) a child who has committed a delinquent act and who:
 17 (A) is at least fourteen (14) years of age;
 18 (B) is on probation, is on parole, is discharged from a facility
 19 by the department of correction, is discharged from a secure
 20 private facility (as defined in IC 31-9-2-115), or is discharged
 21 from a juvenile detention facility as a result of an adjudication
 22 as a delinquent child for an act that would be an offense
 23 described in subsection (a) if committed by an adult; and
 24 (C) is found by a court by clear and convincing evidence to be
 25 likely to repeat an act that would be an offense described in
 26 subsection (a) if committed by an adult.
 27 (c) In making a determination under subsection (b)(2)(C), the court
 28 shall consider expert testimony concerning whether a child is likely to
 29 repeat an act that would be an offense described in subsection (a) if
 30 committed by an adult.
 31 SECTION 5. IC 20-28-5-8, AS AMENDED BY P.L.238-2015,
 32 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2016]: Sec. 8. (a) This section applies when a prosecuting
 34 attorney knows that a licensed employee of a public school or a
 35 nonpublic school has been convicted of an offense listed in subsection
 36 (c). The prosecuting attorney shall immediately give written notice of
 37 the conviction to the following:
 38 (1) The state superintendent.
 39 (2) Except as provided in subdivision (3), the superintendent of
 40 the school corporation that employs the licensed employee or the
 41 equivalent authority if a nonpublic school employs the licensed
 42 employee.



- 1 (3) The presiding officer of the governing body of the school
 2 corporation that employs the licensed employee, if the convicted
 3 licensed employee is the superintendent of the school corporation.
 4 (b) The superintendent of a school corporation, presiding officer of
 5 the governing body, or equivalent authority for a nonpublic school shall
 6 immediately notify the state superintendent when the individual knows
 7 that a current or former licensed employee of the public school or
 8 nonpublic school has been convicted of an offense listed in subsection
 9 (c), or when the governing body or equivalent authority for a nonpublic
 10 school takes any final action in relation to an employee who engaged
 11 in any offense listed in subsection (c).
 12 (c) The department, after holding a hearing on the matter, shall
 13 permanently revoke the license of a person who is known by the
 14 department to have been convicted of any of the following felonies:
 15 (1) Kidnapping (IC 35-42-3-2).
 16 (2) Criminal confinement (IC 35-42-3-3).
 17 (3) Rape (IC 35-42-4-1).
 18 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 19 (5) Child molesting (IC 35-42-4-3).
 20 (6) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
 21 (7) Vicarious sexual gratification (IC 35-42-4-5).
 22 (8) Child solicitation (IC 35-42-4-6).
 23 (9) Child seduction (IC 35-42-4-7).
 24 (10) Sexual misconduct with a minor (IC 35-42-4-9).
 25 (11) Incest (IC 35-46-1-3).
 26 (12) Dealing in or manufacturing cocaine or a narcotic drug
 27 (IC 35-48-4-1).
 28 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
 29 (14) Dealing in a schedule I, II, or III controlled substance
 30 (IC 35-48-4-2).
 31 (15) Dealing in a schedule IV controlled substance
 32 (IC 35-48-4-3).
 33 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 34 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
 35 (18) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 36 (IC 35-48-4-10).
 37 (19) Dealing in a synthetic drug or synthetic drug lookalike
 38 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
 39 amendment in 2013).
 40 (20) Possession of child pornography (~~IC 35-42-4-4(c)~~;
 41 **IC 35-42-4-4(d) or IC 35-42-4-4(e)**).
 42 (21) Homicide (IC 35-42-1).



- 1 (22) Voluntary manslaughter (IC 35-42-1-3).
 2 (23) Reckless homicide (IC 35-42-1-5).
 3 (24) Battery as any of the following:
 4 (A) A Class A felony (for a crime committed before July 1,
 5 2014) or a Level 2 felony (for a crime committed after June
 6 30, 2014).
 7 (B) A Class B felony (for a crime committed before July 1,
 8 2014) or a Level 3 felony (for a crime committed after June
 9 30, 2014).
 10 (C) A Class C felony (for a crime committed before July 1,
 11 2014) or a Level 5 felony (for a crime committed after June
 12 30, 2014).
 13 (25) Aggravated battery (IC 35-42-2-1.5).
 14 (26) Robbery (IC 35-42-5-1).
 15 (27) Carjacking (IC 35-42-5-2) (before its repeal).
 16 (28) Arson as a Class A felony or Class B felony (for a crime
 17 committed before July 1, 2014) or as a Level 2, Level 3, or Level
 18 4 felony (for a crime committed after June 30, 2014)
 19 (IC 35-43-1-1(a)).
 20 (29) Burglary as a Class A felony or Class B felony (for a crime
 21 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
 22 or Level 4 felony (for a crime committed after June 30, 2014)
 23 (IC 35-43-2-1).
 24 (30) Attempt under IC 35-41-5-1 to commit an offense listed in
 25 this subsection.
 26 (31) Conspiracy under IC 35-41-5-2 to commit an offense listed
 27 in this subsection.
 28 (d) The department, after holding a hearing on the matter, shall
 29 permanently revoke the license of a person who is known by the
 30 department to have been convicted of a federal offense or an offense in
 31 another state that is comparable to a felony listed in subsection (c).
 32 (e) A license may be suspended by the state superintendent as
 33 specified in IC 20-28-7.5.
 34 (f) The department shall develop a data base of information on
 35 school corporation employees who have been reported to the
 36 department under this section.
 37 SECTION 6. IC 22-5-5-1, AS AMENDED BY P.L.214-2013,
 38 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2016]: Sec. 1. The employment contract of a person who:
 40 (1) works with children; and
 41 (2) is convicted of:
 42 (A) rape (IC 35-42-4-1), if the victim is less than eighteen (18)



- 1 years of age;
 2 (B) criminal deviate conduct (IC 35-42-4-2) (repealed), if the
 3 victim is less than eighteen (18) years of age;
 4 (C) child molesting (IC 35-42-4-3);
 5 (D) child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**);
 6 (E) vicarious sexual gratification (IC 35-42-4-5);
 7 (F) child solicitation (IC 35-42-4-6);
 8 (G) child seduction (IC 35-42-4-7); or
 9 (H) incest (IC 35-46-1-3), if the victim is less than eighteen
 10 (18) years of age;

11 may be canceled by the person's employer.

12 SECTION 7. IC 31-14-14-1, AS AMENDED BY P.L.95-2009,
 13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2016]: Sec. 1. (a) A noncustodial parent is entitled to
 15 reasonable parenting time rights unless the court finds, after a hearing,
 16 that parenting time might:

- 17 (1) endanger the child's physical health and well-being; or
 18 (2) significantly impair the child's emotional development.

19 (b) The court may interview the child in chambers to assist the court
 20 in determining the child's perception of whether parenting time by the
 21 noncustodial parent might endanger the child's physical health or
 22 significantly impair the child's emotional development.

23 (c) In a hearing under subsection (a), there is a rebuttable
 24 presumption that a person who has been convicted of:

- 25 (1) child molesting (IC 35-42-4-3); or
 26 (2) child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**);
 27 might endanger the child's physical health and well-being or
 28 significantly impair the child's emotional development.

29 (d) If a court grants parenting time rights to a person who has been
 30 convicted of:

- 31 (1) child molesting (IC 35-42-4-3); or
 32 (2) child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**);
 33 there is a rebuttable presumption that the parenting time with the child
 34 must be supervised.

35 (e) The court may permit counsel to be present at the interview. If
 36 counsel is present:

- 37 (1) a record may be made of the interview; and
 38 (2) the interview may be made part of the record for purposes of
 39 appeal.

40 SECTION 8. IC 33-37-5-23, AS AMENDED BY P.L.168-2014,
 41 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2016]: Sec. 23. (a) This section applies to criminal actions.



1 (b) The court shall assess a sexual assault victims assistance fee of
 2 at least five hundred dollars (\$500) and not more than five thousand
 3 dollars (\$5,000) against an individual convicted in Indiana of any of the
 4 following offenses:

- 5 (1) Rape (IC 35-42-4-1).
- 6 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 7 (3) Child molesting (IC 35-42-4-3).
- 8 (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
- 9 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 10 (6) Child solicitation (IC 35-42-4-6).
- 11 (7) Child seduction (IC 35-42-4-7).
- 12 (8) Sexual battery (IC 35-42-4-8).
- 13 (9) Sexual misconduct with a minor as a Class A or Class B
 14 felony (for a crime committed before July 1, 2014) or a Level 1
 15 felony or Level 4 felony (for a crime committed after June 30,
 16 2014) (IC 35-42-4-9).
- 17 (10) Incest (IC 35-46-1-3).
- 18 (11) Promotion of human trafficking (IC 35-42-3.5-1(a)).
- 19 (12) Promotion of human trafficking of a minor
 20 (IC 35-42-3.5-1(b)).
- 21 (13) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
- 22 (14) Human trafficking (IC 35-42-3.5-1(d)).

23 SECTION 9. IC 33-39-1-9, AS AMENDED BY P.L.214-2013,
 24 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2016]: Sec. 9. A prosecuting attorney who charges a person
 26 with committing any of the following shall inform the person's
 27 employer of the charge, unless the prosecuting attorney determines that
 28 the person charged does not work with children:

- 29 (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
 30 years of age.
- 31 (2) Criminal deviate conduct (IC 35-42-4-2) (repealed), if the
 32 victim is less than eighteen (18) years of age.
- 33 (3) Child molesting (IC 35-42-4-3).
- 34 (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
- 35 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 36 (6) Child solicitation (IC 35-42-4-6).
- 37 (7) Child seduction (IC 35-42-4-7).
- 38 (8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)
 39 years of age.

40 SECTION 10. IC 35-36-10-2, AS AMENDED BY P.L.6-2012,
 41 SECTION 223, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2016]: Sec. 2. As used in this chapter, "child



1 pornography" includes:

- 2 (1) material described in ~~IC 35-42-4-4(e)~~; **IC 35-42-4-4(d)**; and
 3 (2) material defined in 18 U.S.C. 2256(8).

4 SECTION 11. IC 35-38-2-2.5, AS AMENDED BY P.L.214-2013,
 5 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2016]: Sec. 2.5. (a) As used in this section, "offender" means
 7 an individual convicted of a sex offense.

8 (b) As used in this section, "sex offense" means any of the
 9 following:

- 10 (1) Rape (IC 35-42-4-1).
 11 (2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
 12 (3) Child molesting (IC 35-42-4-3).
 13 (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
 14 (5) Vicarious sexual gratification (IC 35-42-4-5).
 15 (6) Child solicitation (IC 35-42-4-6).
 16 (7) Child seduction (IC 35-42-4-7).
 17 (8) Sexual battery (IC 35-42-4-8).
 18 (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
 19 (10) Incest (IC 35-46-1-3).

20 (c) A condition of remaining on probation or parole after conviction
 21 for a sex offense is that the offender not reside within one (1) mile of
 22 the residence of the victim of the offender's sex offense.

23 (d) An offender:

24 (1) who will be placed on probation shall provide the sentencing
 25 court and the probation department with the address where the
 26 offender intends to reside during the period of probation:

- 27 (A) at the time of sentencing if the offender will be placed on
 28 probation without first being incarcerated; or
 29 (B) before the offender's release from incarceration if the
 30 offender will be placed on probation after completing a term
 31 of incarceration; or

32 (2) who will be placed on parole shall provide the parole board
 33 with the address where the offender intends to reside during the
 34 period of parole.

35 (e) An offender, while on probation or parole, may not establish a
 36 new residence within one (1) mile of the residence of the victim of the
 37 offender's sex offense unless the offender first obtains a waiver from
 38 the:

- 39 (1) court, if the offender is placed on probation; or
 40 (2) parole board, if the offender is placed on parole;

41 for the change of address under subsection (f).

42 (f) The court or parole board may waive the requirement set forth in



1 subsection (c) only if the court or parole board, at a hearing at which
 2 the offender is present and of which the prosecuting attorney has been
 3 notified, determines that:

- 4 (1) the offender has successfully completed a sex offender
 5 treatment program during the period of probation or parole;
 6 (2) the offender is in compliance with all terms of the offender's
 7 probation or parole; and
 8 (3) good cause exists to allow the offender to reside within one (1)
 9 mile of the residence of the victim of the offender's sex offense.

10 However, the court or parole board may not grant a waiver under this
 11 subsection if the offender is a sexually violent predator under
 12 IC 35-38-1-7.5 or if the offender is an offender against children under
 13 IC 35-42-4-11.

14 (g) If the court or parole board grants a waiver under subsection (f),
 15 the court or parole board shall state in writing the reasons for granting
 16 the waiver. The court's written statement of its reasons shall be
 17 incorporated into the record.

18 (h) The address of the victim of the offender's sex offense is
 19 confidential even if the court or parole board grants a waiver under
 20 subsection (f).

21 SECTION 12. IC 35-42-3.5-1, AS AMENDED BY P.L.168-2014,
 22 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 1. (a) A person who, by force, threat of force, or
 24 fraud, knowingly or intentionally recruits, harbors, or transports
 25 another person:

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

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

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

- 37 (1) eighteen (18) years of age with the intent of:
 38 (A) engaging the child in:
 39 (i) forced labor; or
 40 (ii) involuntary servitude; or
 41 (B) inducing or causing the child to:
 42 (i) engage in prostitution; or



- 1 (ii) engage in a performance or incident that includes sexual
 2 conduct in violation of IC 35-42-4-4(b) or **IC 35-42-4-4(c)**
 3 (child exploitation); or
 4 (2) sixteen (16) years of age with the intent of inducing or causing
 5 the child to participate in sexual conduct (as defined by
 6 IC 35-42-4-4);
 7 commits promotion of human trafficking of a minor, a Level 3 felony.
 8 Except as provided in subsection (e), it is not a defense to a prosecution
 9 under this subsection that the child consented to engage in prostitution
 10 or to participate in sexual conduct.
- 11 (c) A person who is at least eighteen (18) years of age who
 12 knowingly or intentionally sells or transfers custody of a child less than
 13 eighteen (18) years of age for the purpose of prostitution or
 14 participating in sexual conduct (as defined by IC 35-42-4-4) commits
 15 sexual trafficking of a minor, a Level 2 felony.
- 16 (d) A person who knowingly or intentionally pays, offers to pay, or
 17 agrees to pay money or other property to another person for an
 18 individual who the person knows has been forced into:
 19 (1) forced labor;
 20 (2) involuntary servitude; or
 21 (3) prostitution;
 22 commits human trafficking, a Level 5 felony.
- 23 (e) It is a defense to a prosecution under subsection (b)(2) if:
 24 (1) the child is at least fourteen (14) years of age but less than
 25 sixteen (16) years of age and the person is less than eighteen (18)
 26 years of age; or
 27 (2) all the following apply:
 28 (A) The person is not more than four (4) years older than the
 29 victim.
 30 (B) The relationship between the person and the victim was a
 31 dating relationship or an ongoing personal relationship. The
 32 term "ongoing personal relationship" does not include a family
 33 relationship.
 34 (C) The crime:
 35 (i) was not committed by a person who is at least twenty-one
 36 (21) years of age;
 37 (ii) was not committed by using or threatening the use of
 38 deadly force;
 39 (iii) was not committed while armed with a deadly weapon;
 40 (iv) did not result in serious bodily injury;
 41 (v) was not facilitated by furnishing the victim, without the
 42 victim's knowledge, with a drug (as defined in



- 1 IC 16-42-19-2(1)) or a controlled substance (as defined in
 2 IC 35-48-1-9) or knowing that the victim was furnished with
 3 the drug or controlled substance without the victim's
 4 knowledge; and
 5 (vi) was not committed by a person having a position of
 6 authority or substantial influence over the victim.
 7 (D) The person has not committed another sex offense (as
 8 defined in IC 11-8-8-5.2), including a delinquent act that
 9 would be a sex offense if committed by an adult, against any
 10 other person.
- 11 SECTION 13. IC 35-42-4-4, AS AMENDED BY P.L.80-2015,
 12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2016]: Sec. 4. (a) The following definitions apply throughout
 14 this section:
- 15 (1) "Disseminate" means to transfer possession for free or for a
 16 consideration.
 17 (2) "Matter" has the same meaning as in IC 35-49-1-3.
 18 (3) "Performance" has the same meaning as in IC 35-49-1-7.
 19 (4) "Sexual conduct" means:
 20 (A) sexual intercourse;
 21 (B) other sexual conduct (as defined in IC 35-31.5-2-221.5);
 22 (C) exhibition of the:
 23 (i) uncovered genitals; or
 24 (ii) female breast with less than a fully opaque covering of
 25 any part of the nipple;
 26 intended to satisfy or arouse the sexual desires of any person;
 27 (D) sadomasochistic abuse;
 28 (E) sexual intercourse or other sexual conduct (as defined in
 29 IC 35-31.5-2-221.5) with an animal; or
 30 (F) any fondling or touching of a child by another person or of
 31 another person by a child intended to arouse or satisfy the
 32 sexual desires of either the child or the other person.
- 33 (b) A person who:
 34 (1) knowingly or intentionally manages, produces, sponsors,
 35 presents, exhibits, photographs, films, videotapes, or creates a
 36 digitized image of any performance or incident that includes
 37 sexual conduct by a child under eighteen (18) years of age;
 38 (2) knowingly or intentionally disseminates, exhibits to another
 39 person, offers to disseminate or exhibit to another person, or
 40 sends or brings into Indiana for dissemination or exhibition matter
 41 that depicts or describes sexual conduct by a child under eighteen
 42 (18) years of age;



1 (3) knowingly or intentionally makes available to another person
 2 a computer, knowing that the computer's fixed drive or peripheral
 3 device contains matter that depicts or describes sexual conduct by
 4 a child less than eighteen (18) years of age; or

5 (4) with the intent to satisfy or arouse the sexual desires of any
 6 person:

7 (A) knowingly or intentionally:

8 (i) manages;

9 (ii) produces;

10 (iii) sponsors;

11 (iv) presents;

12 (v) exhibits;

13 (vi) photographs;

14 (vii) films;

15 (viii) videotapes; or

16 (ix) creates a digitized image of;

17 any performance or incident that includes the uncovered
 18 genitals of a child less than eighteen (18) years of age or the
 19 exhibition of the female breast with less than a fully opaque
 20 covering of any part of the nipple by a child less than eighteen
 21 (18) years of age;

22 (B) knowingly or intentionally:

23 (i) disseminates to another person;

24 (ii) exhibits to another person;

25 (iii) offers to disseminate or exhibit to another person; or

26 (iv) sends or brings into Indiana for dissemination or
 27 exhibition;

28 matter that depicts the uncovered genitals of a child less than
 29 eighteen (18) years of age or the exhibition of the female
 30 breast with less than a fully opaque covering of any part of the
 31 nipple by a child less than eighteen (18) years of age; or

32 (C) makes available to another person a computer, knowing
 33 that the computer's fixed drive or peripheral device contains
 34 matter that depicts the uncovered genitals of a child less than
 35 eighteen (18) years of age or the exhibition of the female
 36 breast with less than a fully opaque covering of any part of the
 37 nipple by a child less than eighteen (18) years of age;

38 commits child exploitation, a Level 5 felony.

39 **(c) However, the offense of child exploitation described in**
 40 **subsection (b) is a Level 4 felony if:**

41 **(1) the sexual conduct, matter, performance, or incident**
 42 **depicts or describes a child less than eighteen (18) years of age**



- 1 **who:**
2 **(A) engages in bestiality (as described in IC 35-46-3-14);**
3 **(B) is mentally disabled or deficient;**
4 **(C) participates in the sexual conduct, matter,**
5 **performance, or incident by use of force or the threat of**
6 **force;**
7 **(D) physically or verbally resists participating in the sexual**
8 **conduct, matter, performance, or incident;**
9 **(E) receives a bodily injury while participating in the**
10 **sexual conduct, matter, performance, or incident; or**
11 **(F) is less than twelve (12) years of age; or**
12 **(2) the child less than eighteen (18) years of age:**
13 **(A) engages in bestiality (as described in IC 35-46-3-14);**
14 **(B) is mentally disabled or deficient;**
15 **(C) participates in the sexual conduct, matter,**
16 **performance, or incident by use of force or the threat of**
17 **force;**
18 **(D) physically or verbally resists participating in the sexual**
19 **conduct, matter, performance, or incident;**
20 **(E) receives a bodily injury while participating in the**
21 **sexual conduct, matter, performance, or incident; or**
22 **(F) is less than twelve (12) years of age.**
23 **(e) (d) A person who knowingly or intentionally possesses:**
24 **(1) a picture;**
25 **(2) a drawing;**
26 **(3) a photograph;**
27 **(4) a negative image;**
28 **(5) undeveloped film;**
29 **(6) a motion picture;**
30 **(7) a videotape;**
31 **(8) a digitized image; or**
32 **(9) any pictorial representation;**
33 that depicts or describes sexual conduct by a child who the person
34 knows is less than eighteen (18) years of age or who appears to be less
35 than eighteen (18) years of age, and that lacks serious literary, artistic,
36 political, or scientific value commits possession of child pornography,
37 a Level 6 felony.
38 **(e) However, the offense of possession of child pornography**
39 **described in subsection (d) is a Level 5 felony if:**
40 **(1) the item described in subsection (d)(1) through (d)(9)**
41 **depicts or describes sexual conduct by a child who the person**
42 **knows is less than eighteen (18) years of age, or who appears**



- 1 **to be less than eighteen (18) years of age, who:**
- 2 **(A) engages in bestiality (as described in IC 35-46-3-14);**
- 3 **(B) is mentally disabled or deficient;**
- 4 **(C) participates in the sexual conduct, matter,**
- 5 **performance, or incident by use of force or the threat of**
- 6 **force;**
- 7 **(D) physically or verbally resists participating in the sexual**
- 8 **conduct, matter, performance, or incident;**
- 9 **(E) receives a bodily injury while participating in the**
- 10 **sexual conduct, matter, performance, or incident; or**
- 11 **(F) is less than twelve (12) years of age; or**
- 12 **(2) the child whose sexual conduct is depicted or described in**
- 13 **an item described in subsection (d)(1) through (d)(9):**
- 14 **(A) engages in bestiality (as described in IC 35-46-3-14);**
- 15 **(B) is mentally disabled or deficient;**
- 16 **(C) participates in the sexual conduct, matter,**
- 17 **performance, or incident by use of force or the threat of**
- 18 **force;**
- 19 **(D) physically or verbally resists participating in the sexual**
- 20 **conduct, matter, performance, or incident;**
- 21 **(E) receives a bodily injury while participating in the**
- 22 **sexual conduct, matter, performance, or incident; or**
- 23 **(F) is less than twelve (12) years of age.**
- 24 ~~(d)~~ **(f)** Subsections (b), ~~and~~ (c), **(d), and (e)** do not apply to a bona
- 25 fide school, museum, or public library that qualifies for certain property
- 26 tax exemptions under IC 6-1.1-10, or to an employee of such a school,
- 27 museum, or public library acting within the scope of the employee's
- 28 employment when the possession of the listed materials is for
- 29 legitimate scientific or educational purposes.
- 30 ~~(e)~~ **(g)** It is a defense to a prosecution under this section that:
- 31 (1) the person is a school employee; and
- 32 (2) the acts constituting the elements of the offense were
- 33 performed solely within the scope of the person's employment as
- 34 a school employee.
- 35 ~~(f)~~ **(h)** Except as provided in subsection ~~(g)~~; **(i)**, it is a defense to a
- 36 prosecution under subsection (b), ~~or~~ (c), **(d), or (e)** if all of the
- 37 following apply:
- 38 (1) A cellular telephone, another wireless or cellular
- 39 communications device, or a social networking web site was used
- 40 to possess, produce, or disseminate the image.
- 41 (2) The defendant is not more than four (4) years older or younger
- 42 than the person who is depicted in the image or who received the



- 1 image.
- 2 (3) The relationship between the defendant and the person who
- 3 received the image or who is depicted in the image was a dating
- 4 relationship or an ongoing personal relationship. For purposes of
- 5 this subdivision, the term "ongoing personal relationship" does
- 6 not include a family relationship.
- 7 (4) The crime was committed by a person less than twenty-two
- 8 (22) years of age.
- 9 (5) The person receiving the image or who is depicted in the
- 10 image acquiesced in the defendant's conduct.
- 11 ~~(g)~~ **(i)** The defense to a prosecution described in subsection ~~(f)~~ **(h)**
- 12 does not apply if:
- 13 (1) the person who receives the image disseminates it to a person
- 14 other than the person:
- 15 (A) who sent the image; or
- 16 (B) who is depicted in the image;
- 17 (2) the image is of a person other than the person who sent the
- 18 image or received the image; or
- 19 (3) the dissemination of the image violates:
- 20 (A) a protective order to prevent domestic or family violence
- 21 issued under IC 34-26-5 (or, if the order involved a family or
- 22 household member, under IC 34-26-2 or IC 34-4-5.1-5 before
- 23 their repeal);
- 24 (B) an ex parte protective order issued under IC 34-26-5 (or,
- 25 if the order involved a family or household member, an
- 26 emergency order issued under IC 34-26-2 or IC 34-4-5.1
- 27 before their repeal);
- 28 (C) a workplace violence restraining order issued under
- 29 IC 34-26-6;
- 30 (D) a no contact order in a dispositional decree issued under
- 31 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or
- 32 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an
- 33 order issued under IC 31-32-13 (or IC 31-6-7-14 before its
- 34 repeal) that orders the person to refrain from direct or indirect
- 35 contact with a child in need of services or a delinquent child;
- 36 (E) a no contact order issued as a condition of pretrial release,
- 37 including release on bail or personal recognizance, or pretrial
- 38 diversion, and including a no contact order issued under
- 39 IC 35-33-8-3.6;
- 40 (F) a no contact order issued as a condition of probation;
- 41 (G) a protective order to prevent domestic or family violence
- 42 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2



1 before their repeal);
 2 (H) a protective order to prevent domestic or family violence
 3 issued under IC 31-14-16-1 in a paternity action;
 4 (I) a no contact order issued under IC 31-34-25 in a child in
 5 need of services proceeding or under IC 31-37-25 in a juvenile
 6 delinquency proceeding;
 7 (J) an order issued in another state that is substantially similar
 8 to an order described in clauses (A) through (I);
 9 (K) an order that is substantially similar to an order described
 10 in clauses (A) through (I) and is issued by an Indian:
 11 (i) tribe;
 12 (ii) band;
 13 (iii) pueblo;
 14 (iv) nation; or
 15 (v) organized group or community, including an Alaska
 16 Native village or regional or village corporation as defined
 17 in or established under the Alaska Native Claims Settlement
 18 Act (43 U.S.C. 1601 et seq.);
 19 that is recognized as eligible for the special programs and
 20 services provided by the United States to Indians because of
 21 their special status as Indians;
 22 (L) an order issued under IC 35-33-8-3.2; or
 23 (M) an order issued under IC 35-38-1-30.
 24 ~~(h)~~ (j) It is a defense to a prosecution under this section that:
 25 (1) the person was less than eighteen (18) years of age at the time
 26 the alleged offense was committed; and
 27 (2) the circumstances described in IC 35-45-4-6(a)(2) through
 28 IC 35-45-4-6(a)(4) apply.
 29 ~~(i)~~ (k) A person is entitled to present the defense described in
 30 subsection ~~(h)~~ (j) in a pretrial hearing. If a person proves by a
 31 preponderance of the evidence in a pretrial hearing that the defense
 32 described in subsection ~~(h)~~ (j) applies, the court shall dismiss the
 33 charges under this section with prejudice.
 34 SECTION 14. IC 35-42-4-11, AS AMENDED BY P.L.168-2014,
 35 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2016]: Sec. 11. (a) As used in this section, and except as
 37 provided in subsection (d), "offender against children" means a person
 38 required to register as a sex or violent offender under IC 11-8-8 who
 39 has been:
 40 (1) found to be a sexually violent predator under IC 35-38-1-7.5;
 41 or
 42 (2) convicted of one (1) or more of the following offenses:



- 1 (A) Child molesting (IC 35-42-4-3).
 2 (B) Child exploitation (IC 35-42-4-4(b) or **IC 35-42-4-4(c)**).
 3 (C) Child solicitation (IC 35-42-4-6).
 4 (D) Child seduction (IC 35-42-4-7).
 5 (E) Kidnapping (IC 35-42-3-2), if the victim is less than
 6 eighteen (18) years of age, and the person is not the child's
 7 parent or guardian.
 8 (F) Attempt to commit or conspiracy to commit an offense
 9 listed in clauses (A) through (E).
 10 (G) An offense in another jurisdiction that is substantially
 11 similar to an offense described in clauses (A) through (F).
 12 A person is an offender against children by operation of law if the
 13 person meets the conditions described in subdivision (1) or (2) at any
 14 time.
 15 (b) As used in this section, "reside" means to spend more than three
 16 (3) nights in:
 17 (1) a residence; or
 18 (2) if the person does not reside in a residence, a particular
 19 location;
 20 in any thirty (30) day period.
 21 (c) An offender against children who knowingly or intentionally:
 22 (1) resides within one thousand (1,000) feet of:
 23 (A) school property, not including property of an institution
 24 providing post-secondary education;
 25 (B) a youth program center; or
 26 (C) a public park; or
 27 (2) establishes a residence within one (1) mile of the residence of
 28 the victim of the offender's sex offense;
 29 commits a sex offender residency offense, a Level 6 felony.
 30 (d) This subsection does not apply to an offender against children
 31 who has two (2) or more unrelated convictions for an offense described
 32 in subsection (a). A person who is an offender against children may
 33 petition the court to consider whether the person should no longer be
 34 considered an offender against children. The person may file a petition
 35 under this subsection not earlier than ten (10) years after the person is
 36 released from incarceration or parole, whichever occurs last (or, if the
 37 person is not incarcerated, not earlier than ten (10) years after the
 38 person is released from probation). A person may file a petition under
 39 this subsection not more than one (1) time per year. A court may
 40 dismiss a petition filed under this subsection or conduct a hearing to
 41 determine if the person should no longer be considered an offender
 42 against children. If the court conducts a hearing, the court shall appoint



1 two (2) psychologists or psychiatrists who have expertise in criminal
 2 behavioral disorders to evaluate the person and testify at the hearing.
 3 After conducting the hearing and considering the testimony of the two
 4 (2) psychologists or psychiatrists, the court shall determine whether the
 5 person should no longer be considered an offender against children. If
 6 a court finds that the person should no longer be considered an offender
 7 against children, the court shall send notice to the department of
 8 correction that the person is no longer considered an offender against
 9 children.

10 SECTION 15. IC 35-42-4-14, AS ADDED BY P.L.235-2015,
 11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2016]: Sec. 14. (a) As used in this section, "serious sex
 13 offender" means a person required to register as a sex offender under
 14 IC 11-8-8 who is:

- 15 (1) found to be a sexually violent predator under IC 35-38-1-7.5;
 16 or
 17 (2) convicted of one (1) or more of the following offenses:
 18 (A) Child molesting (IC 35-42-4-3).
 19 (B) Child exploitation (IC 35-42-4-4(b) or **IC 35-42-4-4(c)**).
 20 (C) Possession of child pornography (~~IC 35-42-4-4(e)~~;
 21 **IC 35-42-4-4(d) or IC 35-42-4-4(e)**).
 22 (D) Vicarious sexual gratification (IC 35-42-4-5(a) and
 23 IC 35-42-4-5(b)).
 24 (E) Performing sexual conduct in the presence of a minor
 25 (IC 35-42-4-5(c)).
 26 (F) Child solicitation (IC 35-42-4-6).
 27 (G) Child seduction (IC 35-42-4-7).
 28 (H) Sexual misconduct with a minor (IC 35-42-4-9).
 29 (I) A conspiracy or an attempt to commit an offense described
 30 in clauses (A) through (H).
 31 (J) An offense in another jurisdiction that is substantially
 32 similar to an offense described in clauses (A) through (I).

33 (b) A serious sex offender who knowingly or intentionally enters
 34 school property commits unlawful entry by a serious sex offender, a
 35 Level 6 felony.

36 SECTION 16. IC 35-50-1-2, AS AMENDED BY P.L.238-2015,
 37 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2016]: Sec. 2. (a) As used in this section, "crime of violence"
 39 means the following:

- 40 (1) Murder (IC 35-42-1-1).
 41 (2) Attempted murder (IC 35-41-5-1).
 42 (3) Voluntary manslaughter (IC 35-42-1-3).



- 1 (4) Involuntary manslaughter (IC 35-42-1-4).
 2 (5) Reckless homicide (IC 35-42-1-5).
 3 (6) Aggravated battery (IC 35-42-2-1.5).
 4 (7) Kidnapping (IC 35-42-3-2).
 5 (8) Rape (IC 35-42-4-1).
 6 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 7 (10) Child molesting (IC 35-42-4-3).
 8 (11) Sexual misconduct with a minor as a Level 1 felony under
 9 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
 10 (12) Robbery as a Level 2 felony or a Level 3 felony
 11 (IC 35-42-5-1).
 12 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 13 or Level 4 felony (IC 35-43-2-1).
 14 (14) Operating a vehicle while intoxicated causing death
 15 (IC 9-30-5-5).
 16 (15) Operating a vehicle while intoxicated causing serious bodily
 17 injury to another person (IC 9-30-5-4).
 18 **(16) Child exploitation as a Level 5 felony under**
 19 **IC 35-42-4-4(b) or a Level 4 felony under IC 35-42-4-4(c).**
 20 ~~(16)~~ **(17)** Resisting law enforcement as a felony (IC 35-44.1-3-1).
 21 ~~(17)~~ **(18)** Unlawful possession of a firearm by a serious violent
 22 felon (IC 35-47-4-5).
 23 (b) As used in this section, "episode of criminal conduct" means
 24 offenses or a connected series of offenses that are closely related in
 25 time, place, and circumstance.
 26 (c) Except as provided in subsection (e) or (f) the court shall
 27 determine whether terms of imprisonment shall be served concurrently
 28 or consecutively. The court may consider the:
 29 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
 30 (2) mitigating circumstances in IC 35-38-1-7.1(b);
 31 in making a determination under this subsection. The court may order
 32 terms of imprisonment to be served consecutively even if the sentences
 33 are not imposed at the same time. However, except for crimes of
 34 violence, the total of the consecutive terms of imprisonment, exclusive
 35 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10
 36 (before its repeal) to which the defendant is sentenced for felony
 37 convictions arising out of an episode of criminal conduct shall not
 38 exceed the period described in subsection (d).
 39 (d) Except as provided in subsection (c), the total of the consecutive
 40 terms of imprisonment to which the defendant is sentenced for felony
 41 convictions arising out of an episode of criminal conduct may not
 42 exceed the following:



- 1 (1) If the most serious crime for which the defendant is sentenced
 2 is a Level 6 felony, the total of the consecutive terms of
 3 imprisonment may not exceed four (4) years.
 4 (2) If the most serious crime for which the defendant is sentenced
 5 is a Level 5 felony, the total of the consecutive terms of
 6 imprisonment may not exceed seven (7) years.
 7 (3) If the most serious crime for which the defendant is sentenced
 8 is a Level 4 felony, the total of the consecutive terms of
 9 imprisonment may not exceed fifteen (15) years.
 10 (4) If the most serious crime for which the defendant is sentenced
 11 is a Level 3 felony, the total of the consecutive terms of
 12 imprisonment may not exceed twenty (20) years.
 13 (5) If the most serious crime for which the defendant is sentenced
 14 is a Level 2 felony, the total of the consecutive terms of
 15 imprisonment may not exceed thirty-two (32) years.
 16 (6) If the most serious crime for which the defendant is sentenced
 17 is a Level 1 felony, the total of the consecutive terms of
 18 imprisonment may not exceed forty-two (42) years.
 19 (e) If, after being arrested for one (1) crime, a person commits
 20 another crime:
 21 (1) before the date the person is discharged from probation,
 22 parole, or a term of imprisonment imposed for the first crime; or
 23 (2) while the person is released:
 24 (A) upon the person's own recognizance; or
 25 (B) on bond;
 26 the terms of imprisonment for the crimes shall be served consecutively,
 27 regardless of the order in which the crimes are tried and sentences are
 28 imposed.
 29 (f) If the factfinder determines under IC 35-50-2-11 that a person
 30 used a firearm in the commission of the offense for which the person
 31 was convicted, the term of imprisonment for the underlying offense and
 32 the additional term of imprisonment imposed under IC 35-50-2-11
 33 must be served consecutively.
 34 SECTION 17. IC 35-50-2-7, AS AMENDED BY P.L.168-2014,
 35 SECTION 117, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) A person who commits a
 37 Class D felony (for a crime committed before July 1, 2014) shall be
 38 imprisoned for a fixed term of between six (6) months and three (3)
 39 years, with the advisory sentence being one and one-half (1 1/2) years.
 40 In addition, the person may be fined not more than ten thousand dollars
 41 (\$10,000).
 42 (b) A person who commits a Level 6 felony (for a crime committed



1 after June 30, 2014) shall be imprisoned for a fixed term of between six
 2 (6) months and two and one-half (2 1/2) years, with the advisory
 3 sentence being one (1) year. In addition, the person may be fined not
 4 more than ten thousand dollars (\$10,000).

5 (c) Notwithstanding subsections (a) and (b), if a person has
 6 committed a Class D felony (for a crime committed before July 1,
 7 2014) or a Level 6 felony (for a crime committed after June 30, 2014),
 8 the court may enter judgment of conviction of a Class A misdemeanor
 9 and sentence accordingly. However, the court shall enter a judgment of
 10 conviction of a Class D felony (for a crime committed before July 1,
 11 2014) or a Level 6 felony (for a crime committed after June 30, 2014)
 12 if:

13 (1) the court finds that:

14 (A) the person has committed a prior, unrelated felony for
 15 which judgment was entered as a conviction of a Class A
 16 misdemeanor; and

17 (B) the prior felony was committed less than three (3) years
 18 before the second felony was committed;

19 (2) the offense is domestic battery as a Class D felony (for a crime
 20 committed before July 1, 2014) or a Level 6 felony (for a crime
 21 committed after June 30, 2014) under IC 35-42-2-1.3; or

22 (3) the offense is possession of child pornography
 23 ~~(IC 35-42-4-4(c))~~. **(IC 35-42-4-4(d))**.

24 The court shall enter in the record, in detail, the reason for its action
 25 whenever it exercises the power to enter judgment of conviction of a
 26 Class A misdemeanor granted in this subsection.

27 (d) Notwithstanding subsections (a) and (b), the sentencing court
 28 may convert a Class D felony conviction (for a crime committed before
 29 July 1, 2014) or a Level 6 felony conviction (for a crime committed
 30 after June 30, 2014) to a Class A misdemeanor conviction if, after
 31 receiving a verified petition as described in subsection (e) and after
 32 conducting a hearing of which the prosecuting attorney has been
 33 notified, the court makes the following findings:

34 (1) The person is not a sex or violent offender (as defined in
 35 IC 11-8-8-5).

36 (2) The person was not convicted of a Class D felony (for a crime
 37 committed before July 1, 2014) or a Level 6 felony (for a crime
 38 committed after June 30, 2014) that resulted in bodily injury to
 39 another person.

40 (3) The person has not been convicted of perjury under
 41 IC 35-44.1-2-1 (or IC 35-44-2-1 before its repeal) or official
 42 misconduct under IC 35-44.1-1-1 (or IC 35-44-1-2 before its



- 1 repeal).
- 2 (4) At least three (3) years have passed since the person:
- 3 (A) completed the person's sentence; and
- 4 (B) satisfied any other obligation imposed on the person as
- 5 part of the sentence;
- 6 for the Class D or Level 6 felony.
- 7 (5) The person has not been convicted of a felony since the
- 8 person:
- 9 (A) completed the person's sentence; and
- 10 (B) satisfied any other obligation imposed on the person as
- 11 part of the sentence;
- 12 for the Class D or Level 6 felony.
- 13 (6) No criminal charges are pending against the person.
- 14 (e) A petition filed under subsection (d) or (f) must be verified and
- 15 set forth:
- 16 (1) the crime the person has been convicted of;
- 17 (2) the date of the conviction;
- 18 (3) the date the person completed the person's sentence;
- 19 (4) any obligations imposed on the person as part of the sentence;
- 20 (5) the date the obligations were satisfied; and
- 21 (6) a verified statement that there are no criminal charges pending
- 22 against the person.
- 23 (f) If a person whose Class D or Level 6 felony conviction has been
- 24 converted to a Class A misdemeanor conviction under subsection (d)
- 25 is convicted of a felony not later than five (5) years after the conversion
- 26 under subsection (d), a prosecuting attorney may petition a court to
- 27 convert the person's Class A misdemeanor conviction back to a Class
- 28 D felony conviction (for a crime committed before July 1, 2014) or a
- 29 Level 6 felony conviction (for a crime committed after June 30, 2014).
- 30 SECTION 18. IC 35-50-6-3.3, AS AMENDED BY P.L.187-2015,
- 31 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 32 JULY 1, 2016]: Sec. 3.3. (a) In addition to any educational credit a
- 33 person earns under subsection (b), or good time credit a person earns
- 34 under section 3 or 3.1 of this chapter, a person earns educational credit
- 35 if the person:
- 36 (1) is in credit Class I, Class A, or Class B;
- 37 (2) has demonstrated a pattern consistent with rehabilitation; and
- 38 (3) successfully completes requirements to obtain one (1) of the
- 39 following:
- 40 (A) A general educational development (GED) diploma under
- 41 IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person
- 42 has not previously obtained a high school diploma.



- 1 (B) Except as provided in subsection (o), a high school
 2 diploma, if the person has not previously obtained a general
 3 educational development (GED) diploma.
- 4 (C) An associate degree from an approved postsecondary
 5 educational institution (as defined under IC 21-7-13-6(a))
 6 earned during the person's incarceration.
- 7 (D) A bachelor degree from an approved postsecondary
 8 educational institution (as defined under IC 21-7-13-6(a))
 9 earned during the person's incarceration.
- 10 (b) In addition to any educational credit that a person earns under
 11 subsection (a), or good time credit a person earns under section 3 or 3.1
 12 of this chapter, a person may earn educational credit if, while confined
 13 by the department of correction, the person:
- 14 (1) is in credit Class I, Class A, or Class B;
 15 (2) demonstrates a pattern consistent with rehabilitation; and
 16 (3) successfully completes requirements to obtain at least one (1)
 17 of the following:
- 18 (A) A certificate of completion of a career and technical or
 19 vocational education program approved by the department of
 20 correction.
- 21 (B) A certificate of completion of a substance abuse program
 22 approved by the department of correction.
- 23 (C) A certificate of completion of a literacy and basic life
 24 skills program approved by the department of correction.
- 25 (D) A certificate of completion of a reformatory program
 26 approved by the department of correction.
- 27 (c) The department of correction shall establish admissions criteria
 28 and other requirements for programs available for earning educational
 29 credit under subsection (b). A person may not earn educational credit
 30 under both subsections (a) and (b) for the same program of study. The
 31 department of correction, in consultation with the department of
 32 workforce development, shall approve a program only if the program
 33 is likely to lead to an employable occupation.
- 34 (d) The amount of educational credit a person may earn under this
 35 section is the following:
- 36 (1) Six (6) months for completion of a state of Indiana general
 37 educational development (GED) diploma under IC 20-20-6
 38 (before its repeal) or IC 22-4.1-18.
- 39 (2) One (1) year for graduation from high school.
- 40 (3) Not more than one (1) year for completion of an associate
 41 degree.
- 42 (4) Not more than two (2) years for completion of a bachelor



- 1 degree.
- 2 (5) Not more than a total of one (1) year, as determined by the
- 3 department of correction, for the completion of one (1) or more
- 4 career and technical or vocational education programs approved
- 5 by the department of correction.
- 6 (6) Not more than a total of six (6) months, as determined by the
- 7 department of correction, for the completion of one (1) or more
- 8 substance abuse programs approved by the department of
- 9 correction.
- 10 (7) Not more than a total of six (6) months, as determined by the
- 11 department of correction, for the completion of one (1) or more
- 12 literacy and basic life skills programs approved by the department
- 13 of correction.
- 14 (8) Not more than a total of six (6) months, as determined by the
- 15 department of correction, for completion of one (1) or more
- 16 reformatory programs approved by the department of correction.
- 17 However, a person who is serving a sentence for an offense listed
- 18 under IC 11-8-8-4.5 may not earn educational credit under this
- 19 subdivision.
- 20 However, a person who does not have a substance abuse problem that
- 21 qualifies the person to earn educational credit in a substance abuse
- 22 program may earn not more than a total of twelve (12) months of
- 23 educational credit, as determined by the department of correction, for
- 24 the completion of one (1) or more career and technical or vocational
- 25 education programs approved by the department of correction. If a
- 26 person earns more than six (6) months of educational credit for the
- 27 completion of one (1) or more career and technical or vocational
- 28 education programs, the person is ineligible to earn educational credit
- 29 for the completion of one (1) or more substance abuse programs.
- 30 (e) Educational credit earned under this section must be directly
- 31 proportional to the time served and course work completed while
- 32 incarcerated. The department of correction shall adopt rules under
- 33 IC 4-22-2 necessary to implement this subsection.
- 34 (f) Educational credit earned by a person under this section is
- 35 subtracted from the release date that would otherwise apply to the
- 36 person by the sentencing court after subtracting all other credit time
- 37 earned by the person.
- 38 (g) A person does not earn educational credit under subsection (a)
- 39 unless the person completes at least a portion of the degree
- 40 requirements after June 30, 1993.
- 41 (h) A person does not earn educational credit under subsection (b)
- 42 unless the person completes at least a portion of the program



1 requirements after June 30, 1999.

2 (i) Educational credit earned by a person under subsection (a) for a
3 diploma or degree completed before July 1, 1999, shall be subtracted
4 from:

5 (1) the release date that would otherwise apply to the person after
6 subtracting all other credit time earned by the person, if the
7 person has not been convicted of an offense described in
8 subdivision (2); or

9 (2) the period of imprisonment imposed on the person by the
10 sentencing court, if the person has been convicted of one (1) of
11 the following crimes:

12 (A) Rape (IC 35-42-4-1).

13 (B) Criminal deviate conduct (IC 35-42-4-2) (before its
14 repeal).

15 (C) Child molesting (IC 35-42-4-3).

16 (D) Child exploitation (IC 35-42-4-4(b) or **IC 35-42-4-4(c)**).

17 (E) Vicarious sexual gratification (IC 35-42-4-5).

18 (F) Child solicitation (IC 35-42-4-6).

19 (G) Child seduction (IC 35-42-4-7).

20 (H) Sexual misconduct with a minor (IC 35-42-4-9) as a:

21 (i) Class A felony, Class B felony, or Class C felony for a
22 crime committed before July 1, 2014; or

23 (ii) Level 1, Level 2, or Level 4 felony, for a crime
24 committed after June 30, 2014.

25 (I) Incest (IC 35-46-1-3).

26 (J) Sexual battery (IC 35-42-4-8).

27 (K) Kidnapping (IC 35-42-3-2), if the victim is less than
28 eighteen (18) years of age.

29 (L) Criminal confinement (IC 35-42-3-3), if the victim is less
30 than eighteen (18) years of age.

31 (M) An attempt or a conspiracy to commit a crime listed in
32 clauses (A) through (L).

33 (j) The maximum amount of educational credit a person may earn
34 under this section is the lesser of:

35 (1) two (2) years; or

36 (2) one-third (1/3) of the person's total applicable credit time.

37 (k) Educational credit earned under this section by an offender
38 serving a sentence for stalking (IC 35-45-10-5), a felony against a
39 person under IC 35-42, or for a crime listed in IC 11-8-8-5, shall be
40 reduced to the extent that application of the educational credit would
41 otherwise result in:

42 (1) postconviction release (as defined in IC 35-40-4-6); or



1 (2) assignment of the person to a community transition program;
2 in less than forty-five (45) days after the person earns the educational
3 credit.

4 (l) A person may earn educational credit for multiple degrees at the
5 same education level under subsection (d) only in accordance with
6 guidelines approved by the department of correction. The department
7 of correction may approve guidelines for proper sequence of education
8 degrees under subsection (d).

9 (m) A person may not earn educational credit:

10 (1) for a general educational development (GED) diploma if the
11 person has previously earned a high school diploma; or

12 (2) for a high school diploma if the person has previously earned
13 a general educational development (GED) diploma.

14 (n) A person may not earn educational credit under this section if
15 the person:

16 (1) commits an offense listed in IC 11-8-8-4.5 while the person is
17 required to register as a sex or violent offender under IC 11-8-8-7;
18 and

19 (2) is committed to the department of correction after being
20 convicted of the offense listed in IC 11-8-8-4.5.

21 (o) For a person to earn educational credit under subsection
22 (a)(3)(B) for successfully completing the requirements for a high
23 school diploma through correspondence courses, each correspondence
24 course must be approved by the department before the person begins
25 the correspondence course. The department may approve a
26 correspondence course only if the entity administering the course is
27 recognized and accredited by the department of education in the state
28 where the entity is located.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 14, 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 16, line 40, after "if" insert "

(1)".

Page 17, delete lines 1 through 8, begin a new line double block indented and insert:

- "(A) engages in bestiality (as described in IC 35-46-3-14);
 (B) is mentally disabled or deficient;
 (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
 (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;
 (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
 (F) is less than twelve (12) years of age; or
 (2) the child less than eighteen (18) years of age:
 (A) engages in bestiality (as described in IC 35-46-3-14);
 (B) is mentally disabled or deficient;
 (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
 (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;
 (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
 (F) is less than twelve (12) years of age."**

Page 17, line 25, after "if" insert "

(1)".

Page 17, delete lines 30 through 37, begin a new line double block indented and insert:

- "(A) engages in bestiality (as described in IC 35-46-3-14);
 (B) is mentally disabled or deficient;
 (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
 (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;**



- (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
- (F) is less than twelve (12) years of age; or
- (2) the child whose sexual conduct is depicted or described in an item described in subsection (d)(1) through (d)(9):
 - (A) engages in bestiality (as described in IC 35-46-3-14);
 - (B) is mentally disabled or deficient;
 - (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
 - (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;
 - (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
 - (F) is less than twelve (12) years of age."

and when so amended that said bill do pass.

(Reference is to SB 14 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 7, Nays 0.

