



February 26, 2016

ENGROSSED
SENATE BILL No. 160

DIGEST OF SB 160 (Updated February 24, 2016 4:56 pm - DI 69)

Citations Affected: IC 31-30; IC 31-37.

Synopsis: Juvenile law. Allows an adult court having jurisdiction over a minor charged with an offense requiring the automatic transfer of jurisdiction to the adult court to withhold judgment and transfer jurisdiction to the juvenile court for adjudication and disposition if the minor is convicted of an offense, but not convicted of an offense requiring the automatic transfer of jurisdiction to the adult court. Allows an intake officer to impose conditions upon the release of a child who was not taken into custody under an order of the court. Requires the juvenile court to hold a detention hearing within 48 hours if an intake officer imposes conditions of release upon a child.

Effective: July 1, 2016.

Young R Michael, Bray, Steele,
Randolph Lonnie M

(HOUSE SPONSORS — WASHBURN, MCNAMARA)

January 5, 2016, read first time and referred to Committee on Judiciary.
January 21, 2016, reassigned to Committee on Corrections & Criminal Law pursuant to Rule 68(b).
January 28, 2016, amended, reported favorably — Do Pass.
February 1, 2016, read second time, amended, ordered engrossed.
February 2, 2016, engrossed. Read third time, passed. Yeas 50, nays 0.
HOUSE ACTION
February 8, 2016, read first time and referred to Committee on Courts and Criminal Code.
February 25, 2016, amended, reported — Do Pass.

ES 160—LS 6623/DI 125



February 26, 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.

ENGROSSED SENATE BILL No. 160

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 31-30-1-4, AS AMENDED BY P.L.84-2015,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 4. (a) The juvenile court does not have jurisdiction
4 over an individual for an alleged violation of:
5 (1) IC 35-41-5-1(a) (attempted murder);
6 (2) IC 35-42-1-1 (murder);
7 (3) IC 35-42-3-2 (kidnapping);
8 (4) IC 35-42-4-1 (rape);
9 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
10 (6) IC 35-42-5-1 (robbery) if:
11 (A) the robbery was committed while armed with a deadly
12 weapon; or
13 (B) the robbery results in bodily injury or serious bodily
14 injury;
15 (7) IC 35-42-5-2 (carjacking) (before its repeal);
16 (8) IC 35-47-2-1 (carrying a handgun without a license), if
17 charged as a felony;

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1 (9) IC 35-47-10 (children and firearms), if charged as a felony; or
 2 (10) any offense that may be joined under IC 35-34-1-9(a)(2) with
 3 any crime listed in this subsection;
 4 if the individual was at least sixteen (16) years of age **but less than**
 5 **eighteen (18) years of age** at the time of the alleged violation.

6 (b) Once an individual described in subsection (a) has been charged
 7 with any **crime offense** listed in subsection (a), the court having adult
 8 criminal jurisdiction shall retain jurisdiction over the case ~~even~~ if the
 9 individual pleads guilty to or is convicted of a ~~lesser included offense~~.
 10 ~~A plea of guilty to or a conviction of a lesser included offense does not~~
 11 ~~vest jurisdiction in the juvenile court.~~ **any offense listed in subsection**
 12 **(a)(1) through (a)(9).**

13 (c) **If:**

- 14 (1) **an individual described in subsection (a) is charged with**
 15 **one (1) or more offenses listed in subsection (a);**
 16 (2) **all the charges under subsection (a)(1) through (a)(9)**
 17 **resulted in an acquittal or were dismissed; and**
 18 (3) **the individual pleads guilty to or is convicted of any**
 19 **offense other than an offense listed in subsection (a)(1)**
 20 **through (a)(9);**

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

35 SECTION 2. IC 31-37-5-5, AS AMENDED BY P.L.158-2013,
 36 SECTION 328, IS AMENDED TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) If the child was not taken into
 38 custody under an order of the court, an intake officer shall investigate
 39 the reasons for the child's detention. The intake officer ~~shall~~ **may**
 40 release the child to the child's parent, guardian, or custodian upon the
 41 person's written promise to bring the child before the juvenile court at
 42 a time specified **and may impose additional conditions upon the**



- 1 **child, including:**
 2 (1) **home detention;**
 3 (2) **electronic monitoring;**
 4 (3) **a curfew restriction;**
 5 (4) **a directive to avoid contact with specified individuals until**
 6 **the child's return to the juvenile court at a specified time;**
 7 (5) **a directive to comply with Indiana law; or**
 8 (6) **any other reasonable conditions on the child's actions or**
 9 **behavior.**
- 10 (b) **If the intake officer imposes additional conditions upon the**
 11 **child under subsection (a), the court shall hold a detention hearing**
 12 **under IC 31-37-6 within forty-eight (48) hours of the imposition of**
 13 **the additional conditions, excluding Saturdays, Sundays, and legal**
 14 **holidays.**
- 15 (c) ~~However,~~ The intake officer may place the child in detention if
 16 the intake officer reasonably believes that the child is a delinquent
 17 child and that:
- 18 (1) the child is unlikely to appear before the juvenile court for
 19 subsequent proceedings;
 20 (2) the child has committed an act that would be murder or a
 21 Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony
 22 if committed by an adult;
 23 (3) detention is essential to protect the child or the community;
 24 (4) the parent, guardian, or custodian:
 25 (A) cannot be located; or
 26 (B) is unable or unwilling to take custody of the child; or
 27 (5) the child has a reasonable basis for requesting that the child
 28 not be released.
- 29 ~~(b)~~ (d) If a child is detained for a reason specified in subsection
 30 ~~(a)(4)~~ (c)(4) or ~~(a)(5)~~, (c)(5), the child shall be detained under
 31 IC 31-37-7-1.



Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 68(b), I hereby report that Senate Bill 160, currently assigned to the Committee on Judiciary, be reassigned to the Committee on Corrections & Criminal Law.

LONG

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 160, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 12, delete "(a)." and insert "**(a)(1) through (a)(9)**".

Page 2, line 13, delete "If an individual described in subsection (a):" and insert "**If:**".

Page 2, line 14, after "(1)" insert "**an individual described in subsection (a)**".

Page 2, line 16, delete "was tried and".

Page 2, line 16, delete "subdivision (1)" and insert "**subsection (a)(1) through (a)(9)**".

Page 2, line 17, delete "the dismissal of the charges;" and insert "**were dismissed;**".

Page 2, line 18, after "(3)" insert "**the individual**".

Page 2, line 19, delete "(a);" and insert "**(a)(1) through (a)(9);**".

Page 2, line 20, delete "shall enter" and insert "**may withhold**".

Page 2, line 21, delete "finding that the individual is a delinquent child".

Page 2, line 22, delete "sentencing." and insert "**disposition.**".

and when so amended that said bill do pass.

(Reference is to SB 160 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 8, Nays 0.



SENATE MOTION

Madam President: I move that Senate Bill 160 be amended to read as follows:

Page 2, line 23, after "disposition." insert "**In determining whether to transfer jurisdiction to the juvenile court for disposition, the court having adult criminal jurisdiction shall consider whether there are appropriate services available in the juvenile justice system, whether the child is amenable to rehabilitation under the juvenile justice system, and whether it is in the best interests of the safety and welfare of the community that the child be transferred to juvenile court.**".

(Reference is to SB 160 as printed January 29, 2016.)

YOUNG R MICHAEL

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 160, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 22, after "for" insert "**adjudication and**".

Page 2, line 24, after "for" insert "**adjudication and**".

Page 2, after line 33, begin a new paragraph and insert:

"SECTION 2. IC 31-37-5-5, AS AMENDED BY P.L.158-2013, SECTION 328, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) If the child was not taken into custody under an order of the court, an intake officer shall investigate the reasons for the child's detention. The intake officer ~~shall~~ **may** release the child to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified **and may impose additional conditions upon the child, including:**

- (1) home detention;
- (2) electronic monitoring;
- (3) a curfew restriction;
- (4) a directive to avoid contact with specified individuals until the child's return to the juvenile court at a specified time;
- (5) a directive to comply with Indiana law; or
- (6) any other reasonable conditions on the child's actions or



behavior.

(b) If the intake officer imposes additional conditions upon the child under subsection (a), the court shall hold a detention hearing under IC 31-37-6 within forty-eight (48) hours of the imposition of the additional conditions, excluding Saturdays, Sundays, and legal holidays.

~~(c) However,~~ The intake officer may place the child in detention if the intake officer reasonably believes that the child is a delinquent child and that:

- (1) the child is unlikely to appear before the juvenile court for subsequent proceedings;
- (2) the child has committed an act that would be murder or a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony if committed by an adult;
- (3) detention is essential to protect the child or the community;
- (4) the parent, guardian, or custodian:
 - (A) cannot be located; or
 - (B) is unable or unwilling to take custody of the child; or
- (5) the child has a reasonable basis for requesting that the child not be released.

~~(b)~~ **(d)** If a child is detained for a reason specified in subsection ~~(a)(4)~~ **(c)(4)** or ~~(a)(5)~~ **(c)(5)**, the child shall be detained under IC 31-37-7-1."

and when so amended that said bill do pass.

(Reference is to SB 160 as reprinted February 2, 2016.)

WASHBURNE

Committee Vote: yeas 9, nays 0.

