



January 13, 2017

SENATE BILL No. 200

DIGEST OF SB 200 (Updated January 11, 2017 2:17 pm - DI MV)

Citations Affected: IC 11-8.

Synopsis: Materials harmful to minors. Requires a person convicted of disseminating material harmful to minor to register as a sex offender if the person is a child care worker and distributes the material to a child under the person's care or supervision or to a child who attends a school at which the child care worker is employed.

Effective: July 1, 2017.

Merritt

January 4, 2017, read first time and referred to Committee on Rules and Legislative Procedure.

January 12, 2017, amended; reassigned to Committee on Corrections and Criminal Law.

SB 200—LS 6028/DI 13



January 13, 2017

First Regular Session 120th General Assembly (2017)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

SENATE BILL No. 200

A BILL FOR AN ACT concerning criminal law and procedure.

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

- 1 SECTION 1. IC 11-8-8-4.5, AS AMENDED BY P.L.13-2016,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 4.5. (a) Except as provided in section 22 of this
4 chapter, as used in this chapter, "sex offender" means a person
5 convicted of any of the following offenses:
6 (1) Rape (IC 35-42-4-1).
7 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
8 (3) Child molesting (IC 35-42-4-3).
9 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
10 (5) Vicarious sexual gratification (including performing sexual
11 conduct in the presence of a minor) (IC 35-42-4-5).
12 (6) Child solicitation (IC 35-42-4-6).
13 (7) Child seduction (IC 35-42-4-7).
14 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
15 Class B, or Class C felony (for a crime committed before July 1,
16 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
17 crime committed after June 30, 2014), unless:
18 (A) the person is convicted of sexual misconduct with a minor

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- 1 as a Class C felony (for a crime committed before July 1,
 2 2014) or a Level 5 felony (for a crime committed after June
 3 30, 2014);
 4 (B) the person is not more than:
 5 (i) four (4) years older than the victim if the offense was
 6 committed after June 30, 2007; or
 7 (ii) five (5) years older than the victim if the offense was
 8 committed before July 1, 2007; and
 9 (C) the sentencing court finds that the person should not be
 10 required to register as a sex offender.
 11 (9) Incest (IC 35-46-1-3).
 12 (10) Sexual battery (IC 35-42-4-8).
 13 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 14 (18) years of age, and the person who kidnapped the victim is not
 15 the victim's parent or guardian.
 16 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 17 than eighteen (18) years of age, and the person who confined or
 18 removed the victim is not the victim's parent or guardian.
 19 (13) Possession of child pornography (IC 35-42-4-4(d) or
 20 IC 35-42-4-4(e)).
 21 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
 22 (for a crime committed before July 1, 2014) or a Level 4 felony
 23 (for a crime committed after June 30, 2014).
 24 (15) Promotion of human trafficking under IC 35-42-3.5-1(a)(2).
 25 (16) Promotion of human trafficking of a minor under
 26 IC 35-42-3.5-1(b)(1)(B) or IC 35-42-3.5-1(b)(2).
 27 (17) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
 28 (18) Human trafficking under IC 35-42-3.5-1(d)(3) if the victim
 29 is less than eighteen (18) years of age.
 30 (19) Sexual misconduct by a service provider with a detained or
 31 supervised child (IC 35-44.1-3-10(c)).
 32 **(20) Disseminating materials harmful to minors**
 33 **(IC 35-49-3-3(a)(1)), if the person who disseminates the**
 34 **material is a child care worker (as defined in IC 35-42-4-7)**
 35 **and the victim of the offense is a child who:**
 36 **(A) receives care, supervision, or instruction from the child**
 37 **care worker within the scope of the worker's duties at a**
 38 **shelter care facility, as described in IC 35-42-4-7(d)(1);**
 39 **(B) attends the school corporation, charter school,**
 40 **nonpublic school, or special educational cooperative that**
 41 **employs the child care worker, as described in**
 42 **IC 35-42-4-7(d)(2); or**



1 **(C) attends a school corporation, charter school, nonpublic**
 2 **school, or special educational cooperative with which the**
 3 **child care worker is affiliated, if the child care worker:**

4 **(i) is in a position of trust with respect to the child;**

5 **(ii) is engaged in the provision of care or supervision to**
 6 **the child;**

7 **(iii) is at least four (4) years older than the child; and**

8 **(iv) is not a student at the school or cooperative;**

9 **as described in IC 35-42-4-7(d)(3).**

10 ~~(20)~~ **(21)** An attempt or conspiracy to commit a crime listed in
 11 this subsection.

12 ~~(21)~~ **(22)** A crime under the laws of another jurisdiction,
 13 including a military court, that is substantially equivalent to any
 14 of the offenses listed in this subsection.

15 (b) The term includes:

16 (1) a person who is required to register as a sex offender in any
 17 jurisdiction; and

18 (2) a child who has committed a delinquent act and who:

19 (A) is at least fourteen (14) years of age;

20 (B) is on probation, is on parole, is discharged from a facility
 21 by the department of correction, is discharged from a secure
 22 private facility (as defined in IC 31-9-2-115), or is discharged
 23 from a juvenile detention facility as a result of an adjudication
 24 as a delinquent child for an act that would be an offense
 25 described in subsection (a) if committed by an adult; and

26 (C) is found by a court by clear and convincing evidence to be
 27 likely to repeat an act that would be an offense described in
 28 subsection (a) if committed by an adult.

29 (c) In making a determination under subsection (b)(2)(C), the court
 30 shall consider expert testimony concerning whether a child is likely to
 31 repeat an act that would be an offense described in subsection (a) if
 32 committed by an adult.

33 SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.13-2016,
 34 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2017]: Sec. 5. (a) Except as provided in section 22 of this
 36 chapter, as used in this chapter, "sex or violent offender" means a
 37 person convicted of any of the following offenses:

38 (1) Rape (IC 35-42-4-1).

39 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

40 (3) Child molesting (IC 35-42-4-3).

41 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).

42 (5) Vicarious sexual gratification (including performing sexual



- 1 conduct in the presence of a minor) (IC 35-42-4-5).
 2 (6) Child solicitation (IC 35-42-4-6).
 3 (7) Child seduction (IC 35-42-4-7).
 4 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
 5 Class B, or Class C felony (for a crime committed before July 1,
 6 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
 7 crime committed after June 30, 2014), unless:
 8 (A) the person is convicted of sexual misconduct with a minor
 9 as a Class C felony (for a crime committed before July 1,
 10 2014) or a Level 5 felony (for a crime committed after June
 11 30, 2014);
 12 (B) the person is not more than:
 13 (i) four (4) years older than the victim if the offense was
 14 committed after June 30, 2007; or
 15 (ii) five (5) years older than the victim if the offense was
 16 committed before July 1, 2007; and
 17 (C) the sentencing court finds that the person should not be
 18 required to register as a sex offender.
 19 (9) Incest (IC 35-46-1-3).
 20 (10) Sexual battery (IC 35-42-4-8).
 21 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 22 (18) years of age, and the person who kidnapped the victim is not
 23 the victim's parent or guardian.
 24 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 25 than eighteen (18) years of age, and the person who confined or
 26 removed the victim is not the victim's parent or guardian.
 27 (13) Possession of child pornography (IC 35-42-4-4(d) or
 28 IC 35-42-4-4(e)).
 29 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
 30 (for a crime committed before July 1, 2014) or a Level 4 felony
 31 (for a crime committed after June 30, 2014).
 32 (15) Promotion of human trafficking under IC 35-42-3.5-1(a)(2).
 33 (16) Promotion of human trafficking of a minor under
 34 IC 35-42-3.5-1(b)(1)(B) or IC 35-42-3.5-1(b)(2).
 35 (17) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
 36 (18) Human trafficking under IC 35-42-3.5-1(d)(3) if the victim
 37 is less than eighteen (18) years of age.
 38 (19) Murder (IC 35-42-1-1).
 39 (20) Voluntary manslaughter (IC 35-42-1-3).
 40 (21) Sexual misconduct by a service provider with a detained or
 41 supervised child (IC 35-44.1-3-10(c)).
 42 **(22) Disseminating materials harmful to minors**



1 (IC 35-49-3-3(a)(1)), if the person who disseminates the
 2 material is a child care worker (as defined in IC 35-42-4-7)
 3 and the victim of the offense is a child who:

4 (A) receives care, supervision, or instruction from the child
 5 care worker within the scope of the worker's duties at a
 6 shelter care facility, as described in IC 35-42-4-7(d)(1);

7 (B) attends the school corporation, charter school,
 8 nonpublic school, or special educational cooperative that
 9 employs the child care worker, as described in
 10 IC 35-42-4-7(d)(2); or

11 (C) attends a school corporation, charter school, nonpublic
 12 school, or special educational cooperative with which the
 13 child care worker is affiliated, if the child care worker:

14 (i) is in a position of trust with respect to the child;

15 (ii) is engaged in the provision of care or supervision to
 16 the child;

17 (iii) is at least four (4) years older than the child; and

18 (iv) is not a student at the school or cooperative;

19 as described in IC 35-42-4-7(d)(3).

20 ~~(22)~~ (23) An attempt or conspiracy to commit a crime listed in
 21 this subsection.

22 ~~(23)~~ (24) A crime under the laws of another jurisdiction,
 23 including a military court, that is substantially equivalent to any
 24 of the offenses listed in this subsection.

25 (b) The term includes:

26 (1) a person who is required to register as a sex or violent
 27 offender in any jurisdiction; and

28 (2) a child who has committed a delinquent act and who:

29 (A) is at least fourteen (14) years of age;

30 (B) is on probation, is on parole, is discharged from a facility
 31 by the department of correction, is discharged from a secure
 32 private facility (as defined in IC 31-9-2-115), or is discharged
 33 from a juvenile detention facility as a result of an adjudication
 34 as a delinquent child for an act that would be an offense
 35 described in subsection (a) if committed by an adult; and

36 (C) is found by a court by clear and convincing evidence to be
 37 likely to repeat an act that would be an offense described in
 38 subsection (a) if committed by an adult.

39 (c) In making a determination under subsection (b)(2)(C), the court
 40 shall consider expert testimony concerning whether a child is likely to
 41 repeat an act that would be an offense described in subsection (a) if
 42 committed by an adult.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 200, 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:

Delete the title and insert the following:

A BILL FOR AN ACT concerning Criminal Law and Procedure.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections and Criminal Law.

(Reference is to SB 200 as introduced.)

LONG, Chairperson

