

SENATE BILL No. 280

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-133.1; IC 31-34-1-3; IC 35-31.5-2-178.5; IC 35-42-3.5-1; IC 35-45.

Synopsis: Acts of prostitution committed by children. Provides that prostitution is a criminal offense only if committed by a person who is at least 18 years of age. Defines "juvenile prostitution". Provides that a person less than 18 years of age who is engaged in juvenile prostitution is considered a juvenile prostitution victim. Adds juvenile prostitution to elements involving prostitution in human trafficking crimes and the crimes of visiting a common nuisance and promoting prostitution. Provides that a juvenile prostitution victim who needs care, treatment, or rehabilitation from the court is a child in need of services.

Effective: July 1, 2017.

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January 9, 2017, read first time and referred to Committee on Corrections and Criminal Law.



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. 280

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 31-9-2-133.1, AS ADDED BY P.L.46-2016,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 133.1. "Victim of human or sexual trafficking",
4 for purposes of IC 31-34-1-3.5, refers to a child who is recruited,
5 harbored, transported, or engaged in:
6 (1) forced labor;
7 (2) involuntary servitude;
8 (3) prostitution;
9 **(4) juvenile prostitution, as defined in IC 35-31.5-2-178.5;**
10 ~~(4) (5) child exploitation, as defined in IC 35-42-4-4(b);~~
11 ~~(5) (6) marriage, unless authorized by a court under IC 31-11-1-6;~~
12 or
13 ~~(6) (7) trafficking for the purpose of prostitution, **juvenile**~~
14 **prostitution**, or participation in sexual conduct as defined in
15 IC 35-42-4-4(a)(4).
16 SECTION 2. IC 31-34-1-3, AS AMENDED BY P.L.46-2016,
17 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2017]: Sec. 3. (a) A child is a child in need of services if,
 2 before the child becomes eighteen (18) years of age:
 3 (1) the child is the victim of an offense under:
 4 (A) IC 35-42-4-1;
 5 (B) IC 35-42-4-2 (before its repeal);
 6 (C) IC 35-42-4-3;
 7 (D) IC 35-42-4-4;
 8 (E) IC 35-42-4-5;
 9 (F) IC 35-42-4-6;
 10 (G) IC 35-42-4-7;
 11 (H) IC 35-42-4-8;
 12 (I) IC 35-42-4-9;
 13 (J) IC 35-45-4-1;
 14 (K) IC 35-45-4-2;
 15 (L) IC 35-45-4-3;
 16 (M) IC 35-45-4-4;
 17 (N) IC 35-46-1-3; or
 18 (O) the law of another jurisdiction, including a military court,
 19 that is substantially equivalent to any of the offenses listed in
 20 clauses (A) through (N); and
 21 (2) the child needs care, treatment, or rehabilitation that:
 22 (A) the child is not receiving; and
 23 (B) is unlikely to be provided or accepted without the coercive
 24 intervention of the court.
 25 (b) A child is a child in need of services if, before the child becomes
 26 eighteen (18) years of age, the child:
 27 (1) lives in the same household as an adult who:
 28 (A) committed an offense described in subsection (a)(1)
 29 against a child and the offense resulted in a conviction or a
 30 judgment under IC 31-34-11-2; or
 31 (B) has been charged with an offense described in subsection
 32 (a)(1) against a child and is awaiting trial; and
 33 (2) needs care, treatment, or rehabilitation that:
 34 (A) the child is not receiving; and
 35 (B) is unlikely to be provided or accepted without the coercive
 36 intervention of the court.
 37 (c) A child is a child in need of services if, before the child becomes
 38 eighteen (18) years of age:
 39 (1) the child lives in the same household as an adult who:
 40 (A) committed a human or sexual trafficking offense under
 41 IC 35-42-3.5-1 or the law of another jurisdiction, including
 42 federal law, that resulted in a conviction or a judgment under



- 1 IC 31-34-11-2; or
 2 (B) has been charged with a human or sexual trafficking
 3 offense under IC 35-42-3.5-1 or the law of another
 4 jurisdiction, including federal law, and is awaiting trial; and
 5 (2) the child needs care, treatment, or rehabilitation that:
 6 (A) the child is not receiving; and
 7 (B) is unlikely to be provided or accepted without the coercive
 8 intervention of the court.
 9 **(d) A child is a child in need of services if, before the child
 10 becomes eighteen (18) years of age:**
 11 **(1) the child is a juvenile prostitution victim, as described in
 12 IC 35-45-4-4; and**
 13 **(2) the child needs care, treatment, or rehabilitation that:**
 14 **(A) the child is not receiving; and**
 15 **(B) is unlikely to be provided or accepted without the
 16 coercive intervention of the court.**
 17 SECTION 3. IC 35-31.5-2-178.5 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2017]: **Sec. 178.5. "Juvenile prostitution"**
 20 **means an act by a person less than eighteen (18) years of age that**
 21 **would be a crime described in IC 35-45-4-2(a) if committed by an**
 22 **individual at least eighteen (18) years of age.**
 23 SECTION 4. IC 35-42-3.5-1, AS AMENDED BY P.L.13-2016,
 24 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2017]: Sec. 1. (a) A person who, by force, threat of force, or
 26 fraud, knowingly or intentionally recruits, harbors, or transports
 27 another person:
 28 (1) to engage the other person in:
 29 (A) forced labor; or
 30 (B) involuntary servitude; or
 31 (2) to force the other person into:
 32 (A) marriage;
 33 (B) prostitution; or
 34 (C) participating in sexual conduct (as defined by
 35 IC 35-42-4-4);
 36 commits promotion of human trafficking, a Level 4 felony.
 37 (b) A person who knowingly or intentionally recruits, harbors, or
 38 transports a child less than:
 39 (1) eighteen (18) years of age with the intent of:
 40 (A) engaging the child in:
 41 (i) forced labor; or
 42 (ii) involuntary servitude; or



- 1 (B) inducing or causing the child to:
 2 (i) engage in prostitution **or juvenile prostitution**; or
 3 (ii) engage in a performance or incident that includes sexual
 4 conduct in violation of IC 35-42-4-4(b) or IC 35-42-4-4(c)
 5 (child exploitation); or
 6 (2) sixteen (16) years of age with the intent of inducing or causing
 7 the child to participate in sexual conduct (as defined by
 8 IC 35-42-4-4);
 9 commits promotion of human trafficking of a minor, a Level 3 felony.
 10 Except as provided in subsection (e), it is not a defense to a prosecution
 11 under this subsection that the child consented to engage in prostitution
 12 **or juvenile prostitution** or to participate in sexual conduct.
 13 (c) A person who is at least eighteen (18) years of age who
 14 knowingly or intentionally sells or transfers custody of a child less than
 15 eighteen (18) years of age for the purpose of prostitution, **juvenile**
 16 **prostitution**, or participating in sexual conduct (as defined by
 17 IC 35-42-4-4) commits sexual trafficking of a minor, a Level 2 felony.
 18 (d) A person who knowingly or intentionally pays, offers to pay, or
 19 agrees to pay money or other property to another person for an
 20 individual who the person knows has been forced into:
 21 (1) forced labor;
 22 (2) involuntary servitude; or
 23 (3) prostitution **or juvenile prostitution**;
 24 commits human trafficking, a Level 5 felony.
 25 (e) It is a defense to a prosecution under subsection (b)(2) if:
 26 (1) the child is at least fourteen (14) years of age but less than
 27 sixteen (16) years of age and the person is less than eighteen (18)
 28 years of age; or
 29 (2) all the following apply:
 30 (A) The person is not more than four (4) years older than the
 31 victim.
 32 (B) The relationship between the person and the victim was a
 33 dating relationship or an ongoing personal relationship. The
 34 term "ongoing personal relationship" does not include a family
 35 relationship.
 36 (C) The crime:
 37 (i) was not committed by a person who is at least twenty-one
 38 (21) years of age;
 39 (ii) was not committed by using or threatening the use of
 40 deadly force;
 41 (iii) was not committed while armed with a deadly weapon;
 42 (iv) did not result in serious bodily injury;



1 (v) was not facilitated by furnishing the victim, without the
 2 victim's knowledge, with a drug (as defined in
 3 IC 16-42-19-2(1)) or a controlled substance (as defined in
 4 IC 35-48-1-9) or knowing that the victim was furnished with
 5 the drug or controlled substance without the victim's
 6 knowledge; and

7 (vi) was not committed by a person having a position of
 8 authority or substantial influence over the victim.

9 (D) The person has not committed another sex offense (as
 10 defined in IC 11-8-8-5.2), including a delinquent act that
 11 would be a sex offense if committed by an adult, against any
 12 other person.

13 SECTION 5. IC 35-45-1-5, AS ADDED BY P.L.59-2016,
 14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2017]: Sec. 5. (a) As used in this section, "common nuisance"
 16 means a building, structure, vehicle, or other place that is used for (1)
 17 or more of the following purposes:

18 (1) To buy an alcoholic beverage in violation of IC 7.1-5-10-5.

19 (2) To unlawfully use, keep, or sell a legend drug.

20 (3) To unlawfully:

21 (A) use;

22 (B) manufacture;

23 (C) keep;

24 (D) offer for sale;

25 (E) sell;

26 (F) deliver; or

27 (G) finance the delivery of;

28 a controlled substance or an item of drug paraphernalia (as
 29 described in IC 35-48-4-8.5).

30 (4) To provide a location for a person to pay, offer to pay, or agree
 31 to pay money or other property to another person for an individual
 32 whom the person knows has been forced into:

33 (A) forced labor;

34 (B) involuntary servitude; or

35 (C) prostitution **or juvenile prostitution.**

36 (5) To provide a location for a person to commit a violation of
 37 IC 35-42-3.5-1(a) through IC 35-42-3.5-1(d) (human trafficking).

38 (b) A person who knowingly or intentionally visits a common
 39 nuisance described in subsections (a)(1) through (a)(4) commits
 40 visiting a common nuisance. The offense is a:

41 (1) Class B misdemeanor if the common nuisance is used for the
 42 unlawful:



- 1 (A) sale of an alcoholic beverage as set forth in subsection
 2 (a)(1); or
 3 (B) use, keeping, or sale of a legend drug as set forth in
 4 subsection (a)(2); or
 5 (C) use, manufacture, keeping, offer for sale, sale, delivery, or
 6 financing the delivery of a controlled substance or item of drug
 7 paraphernalia (as described in IC 35-48-4-8.5), as set forth in
 8 subsection (a)(3);
 9 (2) Class A misdemeanor if:
 10 (A) the common nuisance is used as a location for a person to
 11 pay, offer to pay, or agree to pay for a person who has been
 12 forced into forced labor, involuntary servitude, ~~or~~ prostitution,
 13 **or juvenile prostitution** as set forth in subsection (a)(4); or
 14 (B) the person knowingly, intentionally, or recklessly takes a
 15 person less than eighteen (18) years of age or an endangered
 16 adult (as defined in IC 12-10-3-2) into a common nuisance
 17 used to unlawfully:
 18 (i) use;
 19 (ii) manufacture;
 20 (iii) keep;
 21 (iv) offer for sale;
 22 (v) sell;
 23 (vi) deliver; or
 24 (vii) finance the delivery of;
 25 a controlled substance or an item of drug paraphernalia, as set
 26 forth in subsection (a)(3); and
 27 (3) Level 6 felony if the person:
 28 (A) knowingly, intentionally, or recklessly takes a person less
 29 than eighteen (18) years of age or an endangered adult (as
 30 defined in IC 12-10-3-2) into a common nuisance used to
 31 unlawfully:
 32 (i) use;
 33 (ii) manufacture;
 34 (iii) keep;
 35 (iv) offer for sale;
 36 (v) sell;
 37 (vi) deliver; or
 38 (vii) finance the delivery of;
 39 a controlled substance or an item of drug paraphernalia, as set
 40 forth in subsection (a)(3); and
 41 (B) has a prior unrelated conviction for a violation of this
 42 section involving a controlled substance or drug paraphernalia.



1 (c) A person who knowingly or intentionally maintains a common
2 nuisance commits maintaining a common nuisance, a Level 6 felony.

3 SECTION 6. IC 35-45-4-2, AS AMENDED BY P.L.23-2015,
4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2017]: Sec. 2. (a) A person **at least eighteen (18) years of**
6 **age** who knowingly or intentionally:

7 (1) performs, or offers or agrees to perform, sexual intercourse or
8 other sexual conduct (as defined in IC 35-31.5-2-221.5); or

9 (2) fondles, or offers or agrees to fondle, the genitals of another
10 person;

11 for money or other property commits prostitution, a Class A
12 misdemeanor. However, the offense is a Level 6 felony if the person
13 has two (2) prior convictions under this section.

14 (b) It is a defense to a prosecution under this section that the person
15 was

16 ~~(1) a child (as defined in IC 35-47-10-3); and~~

17 ~~(2) a victim or an alleged victim of an offense under~~
18 ~~IC 35-42-3.5-1~~

19 at the time the person engaged in the prohibited conduct.

20 SECTION 7. IC 35-45-4-4, AS AMENDED BY P.L.158-2013,
21 SECTION 528, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) **As used in this section,**
23 **"juvenile prostitution victim" means a person less than eighteen**
24 **(18) years of age who engages in juvenile prostitution.**

25 (b) A person who:

26 (1) knowingly or intentionally entices or compels another person
27 to become a prostitute **or juvenile prostitution victim;**

28 (2) knowingly or intentionally procures, or offers or agrees to
29 procure, a person for another person for the purpose of
30 prostitution **or juvenile prostitution;**

31 (3) having control over the use of a place, knowingly or
32 intentionally permits another person to use the place for
33 prostitution **or juvenile prostitution;**

34 (4) receives money or other property from a prostitute **or juvenile**
35 **prostitution victim**, without lawful consideration, knowing it was
36 earned in whole or in part from prostitution **or juvenile**
37 **prostitution;** or

38 (5) knowingly or intentionally conducts or directs another person
39 to a place for the purpose of prostitution **or juvenile prostitution;**
40 commits promoting prostitution, a Level 5 felony. However, the offense
41 is a Level 4 felony under subdivision (1) if the person enticed or
42 compelled is under eighteen (18) years of age.

