

# SENATE BILL No. 363

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-31.5-2-83.3; IC 35-42-4-3.

**Synopsis:** Child molesting. Defines "dangerous sexually transmitted disease" and increases the penalty for child molesting from a Level 3 felony to a Level 1 felony if the offense results in the transmission of a dangerous sexually transmitted disease.

**Effective:** July 1, 2015.

---

---

## Broden

---

---

January 8, 2015, read first time and referred to Committee on Corrections & Criminal Law.

---

---



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 363

---

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 35-31.5-2-83.3 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2015]: **Sec. 83.3. "Dangerous sexually**  
4 **transmitted disease" means:**

- 5 (1) **the human immunodeficiency virus (HIV);**  
6 (2) **herpes;**  
7 (3) **gonorrhea;**  
8 (4) **syphilis;**  
9 (5) **chlamydia; or**  
10 (6) **hepatitis.**

11 SECTION 2. IC 35-42-4-3, AS AMENDED BY P.L.168-2014,  
12 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2015]: Sec. 3. (a) A person who, with a child under fourteen  
14 (14) years of age, knowingly or intentionally performs or submits to  
15 sexual intercourse or other sexual conduct (as defined in  
16 IC 35-31.5-2-221.5) commits child molesting, a Level 3 felony.



- 1 However, the offense is a Level 1 felony if:
- 2 (1) it is committed by a person at least twenty-one (21) years of
- 3 age;
- 4 (2) it is committed by using or threatening the use of deadly force
- 5 or while armed with a deadly weapon;
- 6 (3) it results in:
- 7 (A) serious bodily injury; or
- 8 (B) **transmission of a dangerous sexually transmitted**
- 9 **disease; or**
- 10 (4) the commission of the offense is facilitated by furnishing the
- 11 victim, without the victim's knowledge, with a drug (as defined in
- 12 IC 16-42-19-2(1)) or a controlled substance (as defined in
- 13 IC 35-48-1-9) or knowing that the victim was furnished with the
- 14 drug or controlled substance without the victim's knowledge.
- 15 (b) A person who, with a child under fourteen (14) years of age,
- 16 performs or submits to any fondling or touching, of either the child or
- 17 the older person, with intent to arouse or to satisfy the sexual desires of
- 18 either the child or the older person, commits child molesting, a Level
- 19 4 felony. However, the offense is a Level 2 felony if:
- 20 (1) it is committed by using or threatening the use of deadly force;
- 21 (2) it is committed while armed with a deadly weapon; or
- 22 (3) the commission of the offense is facilitated by furnishing the
- 23 victim, without the victim's knowledge, with a drug (as defined in
- 24 IC 16-42-19-2(1)) or a controlled substance (as defined in
- 25 IC 35-48-1-9) or knowing that the victim was furnished with the
- 26 drug or controlled substance without the victim's knowledge.
- 27 (c) A person may be convicted of attempted child molesting of an
- 28 individual at least fourteen (14) years of age if the person believed the
- 29 individual to be a child under fourteen (14) years of age at the time the
- 30 person attempted to commit the offense.
- 31 (d) It is a defense to a prosecution under this section that the
- 32 accused person reasonably believed that the child was sixteen (16)
- 33 years of age or older at the time of the conduct, unless:
- 34 (1) the offense is committed by using or threatening the use of
- 35 deadly force or while armed with a deadly weapon;
- 36 (2) the offense results in serious bodily injury; or
- 37 (3) the commission of the offense is facilitated by furnishing the
- 38 victim, without the victim's knowledge, with a drug (as defined in
- 39 IC 16-42-19-2(1)) or a controlled substance (as defined in
- 40 IC 35-48-1-9) or knowing that the victim was furnished with the
- 41 drug or controlled substance without the victim's knowledge.

