



March 25, 2021

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## ENGROSSED SENATE BILL No. 368

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DIGEST OF SB 368 (Updated March 24, 2021 1:10 pm - DI 131)

**Citations Affected:** IC 31-30; IC 31-37; IC 31-39; IC 31-41.

**Synopsis:** Juvenile justice. Provides for the automatic expungement of certain juvenile offenses. Prohibits a juvenile arrestee who meets certain requirements from being housed with adult inmates prior to trial, with certain exceptions. Establishes a procedure for determining juvenile competency. Provides that after a juvenile court has determined that a child is a dual status child, the juvenile court may refer the child to be assessed by a dual status assessment team under certain circumstances. Makes conforming amendments.

**Effective:** July 1, 2021; July 1, 2022.

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### Tallian, Glick, Breaux, Buck

(HOUSE SPONSORS — MCNAMARA, PIERCE, STEUERWALD,  
HATCHER)

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January 12, 2021, read first time and referred to Committee on Corrections and Criminal Law.

February 11, 2021, amended, reported favorably — Do Pass.

February 22, 2021, read second time, amended, ordered engrossed.

February 23, 2021, engrossed. Read third time, passed. Yeas 46, nays 1.

#### HOUSE ACTION

March 4, 2021, read first time and referred to Committee on Courts and Criminal Code.

March 25, 2021, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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ES 368—LS 6947/DI 106





March 25, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 368

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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 31-30-3-12 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2021]: **Sec. 12. (a) The following definitions apply throughout  
4 this section:**  
5 (1) "Juvenile arrestee" means a child who:  
6 (A) is less than eighteen (18) years of age;  
7 (B) has been charged as an adult; and  
8 (C) is awaiting trial, sentencing, or other legal process.  
9 (2) "Sight or sound contact with adult inmates" means any:  
10 (A) physical;  
11 (B) clear visual; or  
12 (C) verbal;  
13 contact between a juvenile arrestee and an adult inmate that  
14 is not brief and inadvertent.  
15 (b) A juvenile arrestee who is housed in a secure facility may not  
16 be held in:  
17 (1) an adult facility, except as provided in IC 31-37-7-2; or

ES 368—LS 6947/DI 106



1           **(2) a facility that permits sight or sound contact with adult**  
2           **inmates;**  
3           **unless a court finds, after a hearing, that it is in the best interests**  
4           **of justice for the juvenile arrestee to be housed in an adult facility**  
5           **or a facility permitting sight or sound contact with adult inmates.**  
6           **If a court orders a juvenile arrestee to be housed in an adult**  
7           **facility or a facility permitting sight or sound contact with adult**  
8           **inmates, the court shall issue its decision in writing.**

9           **(c) In making a determination under subsection (b), the court**  
10           **shall consider:**

- 11           **(1) the age of the juvenile arrestee;**  
12           **(2) the physical and mental maturity of the juvenile arrestee;**  
13           **(3) the present mental state of the juvenile arrestee, including**  
14           **whether the juvenile arrestee presents an imminent risk of**  
15           **harm to the arrestee or others;**  
16           **(4) the nature and circumstances of the alleged offense;**  
17           **(5) any prior history of delinquent or criminal acts of the**  
18           **juvenile arrestee;**  
19           **(6) the relative ability of the available adult and juvenile**  
20           **detention facilities to not only meet the specific needs of the**  
21           **juvenile but also to protect the safety of the public as well as**  
22           **the safety of other detained youth; and**  
23           **(7) any other relevant factors.**

24           **(d) If a court determines it is in the best interests of justice for**  
25           **the juvenile arrestee to be housed in an adult facility or a facility**  
26           **permitting sight or sound contact with adult inmates, the court**  
27           **may order that the juvenile arrestee be held in an adult facility or**  
28           **a facility permitting sight or sound contact with adult inmates for**  
29           **not more than one hundred eighty (180) days.**

30           **(e) The court may extend the one hundred eighty (180) day**  
31           **period described in subsection (d) for one (1) or more additional**  
32           **sixty (60) day periods, if the court finds, in writing, that there is**  
33           **good cause to extend the juvenile arrestee's placement in an adult**  
34           **facility or a facility permitting sight or sound contact with adult**  
35           **inmates. However, the juvenile arrestee may waive the good cause**  
36           **requirement if the juvenile arrestee prefers to keep the same**  
37           **placement.**

38           **(f) If the court orders a juvenile arrestee to be held under**  
39           **subsection (d) or (e), the court shall hold a hearing at least one (1)**  
40           **time every thirty (30) days to review whether it is still in the**  
41           **interests of justice to house the arrestee in the adult facility or the**  
42           **facility permitting sight or sound contact with adult inmates.**



1 SECTION 2. IC 31-37-11-11 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2022]: **Sec. 11. If a child is found to be**  
4 **competent after a competency evaluation is ordered, the**  
5 **factfinding hearing must be commenced within the period specified**  
6 **by section 2 of this chapter. The date the petition is considered to**  
7 **be filed is the date when the child is found to be competent.**

8 SECTION 3. IC 31-37-26 IS ADDED TO THE INDIANA CODE  
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2022]:

11 **Chapter 26. Competency**

12 **Sec. 1. (a) This chapter applies to a delinquency proceeding**  
13 **brought pursuant to IC 31-37-1 through IC 31-37-3.**

14 **(b) In computing time under this chapter, Saturdays, Sundays,**  
15 **and legal holidays are not included in the computation if the time**  
16 **prescribed is less than fifteen (15) days.**

17 **Sec. 2. The following definitions apply throughout this chapter:**

18 **(1) "Competent" and "competency" mean the present ability**  
19 **of a child to:**

20 **(A) understand the nature and objectives of a proceeding**  
21 **against the child; and**

22 **(B) assist in the child's defense.**

23 **(2) "State institution" has the meaning set forth in**  
24 **IC 12-7-2-184.**

25 **Sec. 3. If, at any time before disposition, a court has reasonable**  
26 **grounds to believe that a child is not competent, the court shall**  
27 **order the child to undergo a competency evaluation as described**  
28 **in section 4 of this chapter, unless the child is represented by**  
29 **counsel and waives the competency evaluation.**

30 **Sec. 4. (a) If the court orders a competency evaluation under**  
31 **section 3 of this chapter, the court shall appoint one (1)**  
32 **disinterested person to evaluate the child's competency. However,**  
33 **if a party requests the appointment of an additional person to**  
34 **conduct an evaluation, the court shall appoint a second**  
35 **disinterested person to evaluate the child's competency.**

36 **(b) A person appointed under subsection (a) may be a:**

37 **(1) psychiatrist; or**

38 **(2) psychologist endorsed by the Indiana state board of**  
39 **examiners in psychology as health service providers in**  
40 **psychology;**

41 **who has expertise in determining competency in juveniles and who**  
42 **is not an employee or a contractor of a state institution.**



1           (c) The court shall order the competency evaluation to be  
2 performed in a location or facility that, consistent with the nature  
3 of the case and the best interests and needs of the child:

4           (1) imposes the fewest restrictions on the freedom of the child  
5 and the child's parent, guardian, or custodian;

6           (2) interferes the least with family autonomy and family life;  
7 and

8           (3) is as close as practicable to the home of the parents,  
9 guardian, or custodian, consistent with the best interests and  
10 special needs of the child.

11          (d) Not later than seven (7) days from the date the court  
12 appoints a person to conduct a competency evaluation, the juvenile  
13 probation department shall provide the person appointed to  
14 conduct the competency evaluation with all relevant files in the  
15 possession of the probation department, including any preliminary  
16 investigatory records and a copy of the delinquency allegations.

17          (e) A person appointed to conduct a competency evaluation may  
18 consider any relevant information.

19          (f) Not later than fourteen (14) days upon completion of the  
20 competency evaluation, the person who conducted the evaluation  
21 shall provide a written report to the court and to all attorneys of  
22 record. The competency report shall include the following:

23           (1) The opinion of the person who conducted the competency  
24 evaluation as to the child's ability to understand the nature  
25 and objectives of the proceeding against the child.

26           (2) The opinion of the person who conducted the competency  
27 evaluation as to the child's ability to assist in the child's  
28 defense.

29           (3) If a person who conducted the competency evaluation  
30 determined that the child is not competent, a:

31               (A) description of the child's need for services; and

32               (B) recommendation concerning the least restrictive setting  
33 and treatment that would assist in restoring the child's  
34 competency.

35          The competency report may not contain any statement from the  
36 child relating to the alleged delinquent act.

37          Sec. 5. As soon as practicable after receiving the written  
38 competency evaluation, the court shall determine whether the child  
39 is competent for adjudication or disposition. Upon a motion by any  
40 party, the court shall conduct a hearing to determine competency.  
41 The child has:

42           (1) the right to notice;



- 1           (2) the opportunity to participate personally at the hearing;  
 2           (3) the right to present evidence; and  
 3           (4) the right to be represented by counsel. If the child is  
 4           indigent, the court shall appoint counsel for the child.

5           The party alleging that the child is not competent has the burden  
 6           of proving that the child is not competent by a preponderance of  
 7           the evidence.

8           Sec. 6. (a) If the court determines that the juvenile is competent,  
 9           the court shall proceed with the delinquency proceedings as  
 10          provided by law. No statement that a child makes during an  
 11          evaluation or hearing conducted under this chapter may be used  
 12          against the child in any juvenile or adult proceeding.

13          (b) If the court determines that the juvenile is not competent,  
 14          the court shall determine whether the child may attain competency  
 15          within:

16           (1) one hundred eighty (180) days, if the child is alleged to  
 17           have committed an act that would be a felony if committed by  
 18           an adult; or

19           (2) ninety (90) days, if the child is alleged to have committed  
 20           an act that would not be a felony if committed by an adult.

21          (c) If the court determines that the juvenile is not competent and  
 22          will not attain competency within the relevant time periods as  
 23          described in subsection (b), the court shall:

24           (1) dismiss the allegations without prejudice; or

25           (2) delay dismissing the allegations for not more than ninety  
 26           (90) days and:

27           (A) refer the matter to the department and request that the  
 28           department determine whether the child may be a child in  
 29           need of services; or

30           (B) order a probation officer to:

31           (i) refer the child or the child's family to an entity  
 32           certified or licensed by the division of mental health and  
 33           addiction, or the bureau of developmental disabilities  
 34           services; or

35           (ii) otherwise secure services to reduce the potential that  
 36           the child will engage in behavior that could result in  
 37           delinquent child or other criminal charges.

38          (d) If the court determines that the juvenile is not competent but  
 39          is reasonably likely to attain competency within the relevant time  
 40          periods as described in subsection (b), the court may order the  
 41          child to participate in services, other than a state institution,  
 42          specifically designed to help the child attain competency, to be paid



1 by the department. If the court orders the child to receive  
2 competency attainment services, the court shall:

3 (1) identify a qualified provider to deliver the competency  
4 attainment services; and

5 (2) order a probation officer to contact that provider by a  
6 specified date to arrange for services.

7 (e) Not later than ten (10) days after the court identifies the  
8 qualified competency attainment services provider as described in  
9 subsection (d), the court shall transmit to the provider a copy of  
10 each competency assessment report it has received for review. The  
11 provider shall return the copies of the reports to the court upon the  
12 termination of the services.

13 (f) Not later than thirty (30) days after the probation officer  
14 contacts the competency attainment services provider under  
15 subsection (d), the provider shall submit to the court a competency  
16 attainment plan for the court's approval. If the court approves the  
17 plan, the court shall provide copies of the plan to the prosecuting  
18 attorney, the child's attorney, the child's guardian ad litem, if any,  
19 and the child's parents, guardian, or custodian.

20 (g) Competency attainment services provided to a child are  
21 subject to the following conditions and time periods measured from  
22 the date the court approves the plan:

23 (1) Services shall be provided in the least restrictive setting  
24 that is consistent with the child's ability to attain competency,  
25 and the safety of both the child and the community. If the  
26 child has been released on a temporary or interim order and  
27 refuses or fails to cooperate with the provider, the court may  
28 reassess the order and amend it to require a more appropriate  
29 setting.

30 (2) No child may be required to participate in competency  
31 attainment services for longer than is required for the child to  
32 attain competency. In addition, if a child is:

33 (A) in a nonresidential setting, the child may not be  
34 required to participate for more than:

35 (i) ninety (90) days if the child is charged with an act that  
36 would not be a felony if committed by an adult; or

37 (ii) one hundred eighty (180) days if the child is charged  
38 with an act that would be a felony or murder if  
39 committed by an adult;

40 (B) in a residential setting that is operated solely or in part  
41 for the purpose of providing competency attainment  
42 services, the child may not be ordered to participate for





- 1                   **more than:**
- 2                    (i) forty-five (45) days if the child is charged with an act
- 3                    that would not be a felony if committed by an adult;
- 4                    (ii) ninety (90) days if the child is charged with an act
- 5                    that would be a Level 4, Level 5, or Level 6 felony if
- 6                    committed by an adult; or
- 7                    (iii) one hundred eighty (180) days if the child is charged
- 8                    with an act that would be murder or a Level 1, Level 2,
- 9                    or Level 3 felony if committed by an adult; and
- 10                  (C) in a residential, detention, or other secured setting
- 11                  where the child has been placed for reasons other than to
- 12                  participate in competency attainment services, but where
- 13                  the child is also ordered to participate in competency
- 14                  attainment services, the child may not be required to
- 15                  participate for more than:
- 16                    (i) ninety (90) days if the child is charged with an act that
- 17                    would not be a felony if committed by an adult; or
- 18                    (ii) one hundred eighty (180) days if the child is charged
- 19                    with an act that would be a felony or murder if
- 20                    committed by an adult.
- 21                  (h) The provider that provides the child's competency
- 22                  attainment services shall submit reports to the court as follows:
- 23                    (1) The provider shall report on the child's progress every
- 24                    thirty (30) days, and upon the termination of services. The
- 25                    report may not include any details of the alleged offense as
- 26                    reported by the child.
- 27                    (2) If the provider determines that the current setting is no
- 28                    longer the least restrictive setting that is consistent with the
- 29                    child's ability to attain competency and the safety of both the
- 30                    child and the community, the provider shall report this to the
- 31                    court within three (3) days of the determination.
- 32                    (3) If the provider determines that the child has achieved the
- 33                    goals of the plan and is able to understand the nature and
- 34                    objectives of the proceeding against the child and to assist in
- 35                    the child's defense, with or without reasonable
- 36                    accommodations, the provider shall issue a report informing
- 37                    the court of that determination within three (3) days of the
- 38                    determination. If the provider believes that accommodations
- 39                    are necessary or desirable, the report shall include
- 40                    recommendations for accommodations.
- 41                    (4) If the provider determines that the child will not achieve
- 42                    the goals of the plan within the applicable period of time



1 under this section, the provider shall issue a report informing  
 2 the court of the determination within three (3) days of the  
 3 determination. The report shall include recommendations for  
 4 services for the child that would support the safety of the child  
 5 or the community.

6 (i) The court shall provide a copy of any report received under  
 7 subsection (h) to the following:

8 (1) The prosecuting attorney.

9 (2) The attorney representing the child.

10 (3) The child's guardian ad litem, if any.

11 (4) The child's parent, guardian, or custodian, unless the court  
 12 finds that providing a copy of the report is not in the best  
 13 interests of the child.

14 (j) Not later than fifteen (15) days after receiving a report under  
 15 subsection (h), the court may hold a hearing to determine if it  
 16 should issue a new order. The court may order a new competency  
 17 evaluation if the court believes that it may assist the court in  
 18 making its determination. The child shall continue to participate in  
 19 competency attainment services until a new order is issued or the  
 20 required period of participation ends.

21 (k) If, following a hearing held under subsection (j), the court  
 22 determines that the child has not or will not attain competency  
 23 within the relevant period of time under subsection (g), the court  
 24 shall:

25 (1) dismiss the allegations without prejudice; or

26 (2) delay dismissing the allegations for not more than ninety  
 27 (90) days and:

28 (A) refer the matter to the department and request that the  
 29 department determine whether the child may be a child in  
 30 need of services; or

31 (B) order a probation officer to:

32 (i) refer the child or the child's family to an entity  
 33 certified or licensed by the division of mental health and  
 34 addiction, or the bureau of developmental disabilities  
 35 services; or

36 (ii) otherwise secure services to reduce the potential that  
 37 the child will engage in behavior that could result in  
 38 delinquent child or other criminal charges.

39 (l) If, following a hearing held under subsection (j), the court  
 40 determines that the child is competent, the court shall proceed with  
 41 the delinquency proceedings as described in subsection (a).

42 (m) Allegations dismissed under subsections (c) and (k) do not



- 1 preclude:
- 2 (1) a future proceeding against the child if the child eventually
- 3 attains competency; or
- 4 (2) a civil action against the child based on the conduct that
- 5 formed the basis of the allegations against the child.
- 6 (n) A referral made under subsection (c) or (k) does not
- 7 establish an obligation on the division of mental health and
- 8 addiction, a state institution, or the bureau of developmental
- 9 disabilities services to provide services to a referred child.
- 10 (o) Proceedings under this chapter do not toll the time limits
- 11 under IC 31-37-11-5.
- 12 SECTION 4. IC 31-39-8-3.5 IS ADDED TO THE INDIANA CODE
- 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 14 1, 2021]: **Sec. 3.5. (a) This section does not apply to the records of**
- 15 **a child adjudicated a delinquent child for committing an act that**
- 16 **would be:**
- 17 (1) a felony if committed by an adult;
- 18 (2) a violation of IC 35-47-2; or
- 19 (3) a violation of IC 35-47-10.
- 20 (b) This section applies to the records of a child adjudicated a
- 21 delinquent child after June 30, 2021.
- 22 (c) When a child reaches nineteen (19) years of age, or one (1)
- 23 year after the date on which the juvenile court discharges the child
- 24 under IC 31-37-20-7, whichever is later, the court shall, on its own
- 25 motion and without holding a hearing, order expungement of the
- 26 records relating to the child's delinquency adjudication that are
- 27 not excluded under subsection (a) within sixty (60) days, unless the
- 28 court finds, based on the nature of the delinquent act and the needs
- 29 of the child, that automatic expungement under this section would
- 30 not serve the interests of justice.
- 31 (d) The expungement provisions in this section supplement and
- 32 are in addition to expungement provisions located elsewhere in this
- 33 chapter. A person entitled to expungement of delinquency records
- 34 under this section may also seek expungement under any other
- 35 applicable section of this chapter.
- 36 SECTION 5. IC 31-39-8-6, AS AMENDED BY P.L.86-2017,
- 37 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 38 JULY 1, 2021]: **Sec. 6. (a) Subject to subsections (b) and (c), the**
- 39 **records shall be destroyed upon a grant of an expungement petition by**
- 40 **the court, including an expungement order issued under section 3.5**
- 41 **of this chapter.**
- 42 (b) Data from the records in subsection (a) shall be maintained by



1 the court on a secure data base that does not enable identification of the  
2 offender to the public or another person not having legal or statutory  
3 authority to access the records.

4 (c) The records maintained in the data base under subsection (b)  
5 may be used only for statistical analysis, research, and financial  
6 auditing purposes.

7 SECTION 6. IC 31-41-2-1, AS ADDED BY P.L.66-2015,  
8 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2021]: Sec. 1. After a juvenile court has determined that a  
10 child is a dual status child, the juvenile court ~~shall~~ **may** refer the child  
11 to be assessed by a dual status assessment team **after:**

12 **(1) considering the reports provided pursuant to IC 31-34-7-2**  
13 **or IC 31-37-8-5; or**

14 **(2) making a determination pursuant to IC 31-34-10-2(e) or**  
15 **IC 31-37-12-2(e).**

16 **However, all children identified as a dual status child under**  
17 **IC 31-41-1-2(1) through IC 31-41-1-2(3), or IC 31-41-1-2(6), shall**  
18 **be referred to the dual status assessment team.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 368, 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:

Replace the effective date in SECTION 13 with "[EFFECTIVE JULY 1, 2023]".

Page 1, delete lines 1 through 17.

Delete pages 2 through 5.

Page 6, delete lines 1 through 26.

Page 7, delete lines 35 through 42.

Delete pages 8 through 10.

Page 11, delete lines 1 through 5.

Page 11, line 34, delete "chapter." and insert "**chapter, unless the child is represented by counsel and waives the competency evaluation.**".

Page 11, line 36, delete "two (2) or more" and insert "**one (1)**".

Page 11, line 37, delete "persons" and insert "**person**".

Page 11, line 37, after "competency." insert "**However, if a party requests the appointment of an additional person to conduct an evaluation, the court shall appoint a second disinterested person to evaluate the child's competency.**".

Page 12, line 14, delete "persons" and insert "**a person**".

Page 12, line 15, delete "persons" and insert "**person**".

Page 12, line 22, delete "persons" and insert "**person**".

Page 12, line 25, delete "persons" and insert "**person**".

Page 12, line 28, delete "persons" and insert "**person**".

Page 12, line 31, delete "one (1) or more persons" and insert "**a person**".

Page 12, line 37, delete "evaluation" and insert "**report**".

Page 12, line 39, after "Sec. 5." insert "**(a)**".

Page 13, line 6, delete "a public defender or" and insert "**counsel for the child.**".

Page 13, delete line 7.

Page 13, line 8, delete "The party" and insert "**Except as provided in subsection (b), the party**".

Page 13, between lines 10 and 11, begin a new paragraph and insert:

**"(b) There is a presumption that a child less than eleven (11) years of age is not competent, and the party alleging that the child is competent has the burden of proving by a preponderance of the**



**evidence that the child is competent."**

Page 13, line 33, delete "assign court staff" and insert "**order a probation officer**".

Page 14, line 8, delete "the child's parent, guardian, or custodian" and insert "**a probation officer**".

Page 14, line 35, delete "is ordered to" and insert "**is:**".

Page 14, delete lines 36 through 37.

Page 14, line 38, delete "outside of a residential" and insert "**in a nonresidential**".

Page 16, line 36, delete "assign court staff" and insert "**order a probation officer**".

Page 17, delete lines 13 through 42, begin a new paragraph and insert:

"SECTION 5. IC 31-39-8-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.5. (a) This section does not apply to the records of a child adjudicated a delinquent child for committing an act that would be:**

**(1) a felony if committed by an adult; or**

**(2) a violation of IC 35-47-10.**

**(b) This section applies to the records of a child adjudicated a delinquent child after June 30, 2021.**

**(c) When a child reaches nineteen (19) years of age, or one (1) year after the date on which the juvenile court discharges the child under IC 31-37-20-7, whichever is later, the court shall, on its own motion and without holding a hearing, order expungement of the records relating to the child's delinquency adjudication that are not excluded under subsection (a), unless the court finds, based on the nature of the delinquent act and the needs of the child, that automatic expungement under this section would not serve the interests of justice.**

**(d) The expungement provisions in this section supplement and are in addition to expungement provisions located elsewhere in this chapter. A person entitled to expungement of delinquency records under this section may also seek expungement under any other applicable section of this chapter."**

Page 18, delete lines 1 through 19.

Page 18, delete lines 33 through 42.

Delete pages 19 through 29.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.



(Reference is to SB 368 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 6, Nays 1.

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SENATE MOTION

Madam President: I move that Senate Bill 368 be amended to read as follows:

Replace the effective dates in SECTIONS 2 through 3 with "[EFFECTIVE JULY 1, 2022]".

Page 1, delete lines 1 through 7, begin a new paragraph, and insert:  
 "SECTION 1. IC 31-30-3-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2021]: **Sec. 12. (a) The following definitions apply throughout this section:**

- (1) **"Juvenile arrestee" means a child who:**
    - (A) **is less than eighteen (18) years of age;**
    - (B) **has been charged as an adult; and**
    - (C) **is awaiting trial, sentencing, or other legal process.**
  - (2) **"Sight or sound contact with adult inmates" means any:**
    - (A) **physical;**
    - (B) **clear visual; or**
    - (C) **verbal;**
- contact between a juvenile arrestee and an adult inmate that is not brief and inadvertent."**

Page 1, line 11, after "sight" insert "**or sound**".

Page 1, line 14, after "sight" insert "**or sound**".

Page 1, line 16, after "sight" insert "**or sound**".

Page 2, line 18, after "sight" insert "**or sound**".

Page 2, line 20, after "sight" insert "**or sound**".

Page 2, line 23, delete "another one hundred eighty" and insert "**one (1) or more additional sixty (60) day periods,**".

Page 2, line 24, delete "(180) days".

Page 2, line 26, after "sight" insert "**or sound**".

Page 2, line 33, after "sight" insert "**or sound**".

Page 2, between lines 33 and 34, begin a new paragraph and insert:  
**"(g) In addition to the other requirements of this section, the facility in which a juvenile arrestee is housed must comply with the**



requirements of 34 U.S.C. Sec. 11101 et. seq. (Juvenile Justice and Delinquency Prevention), 28 CFR Sec. 31.303, and other regulations adopted pursuant to 34 U.S.C. Sec. 11101 et. seq., including the time periods described in 34 U.S.C. Sec. 11133(a)(13)."

Page 2, line 38, delete "not later than ten (10)" and insert "**within the period specified by section 2 of this chapter.**".

Page 2, delete line 39.

Page 3, delete lines 15 through 18, begin a new paragraph and insert:

**"Sec. 3. If, at any time before disposition, a court has reasonable grounds to believe that a child is not competent,".**

Page 3, run in lines 18 through 19.

Page 5, line 27, delete "agency" and insert "**entity certified or licensed**".

Page 5, line 28, delete "funded".

Page 5, line 29, delete "an agency funded by".

Page 5, line 37, delete "services" and insert "**services, other than a state institution,**".

Page 8, line 28, delete "agency" and insert "**entity certified or licensed**".

Page 8, line 29, delete "funded".

Page 8, line 30, delete "an agency funded by".

Page 9, between lines 1 and 2, begin a new paragraph and insert:

**"(n) A referral made under subsection (c) or (k) does not establish an obligation on the division of mental health and addiction, a state institution, or the bureau of developmental disabilities services to provide services to a referred child."**

Page 9, line 2, delete "(n)" and insert "**(o)**".

Page 9, line 3, delete "IC 31-37-11." and insert "**IC 31-37-11-5.**".

Page 9, line 18, delete "subsection (a)," and insert "**subsection (a) within sixty (60) days,**".

(Reference is to SB 368 as printed February 12, 2021.)

TALLIAN

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SENATE MOTION

Madam President: I move that Senate Bill 368 be amended to read as follows:

ES 368—LS 6947/DI 106





Page 4, line 29, delete "(a)".

Page 4, line 39, delete "Except as provided in subsection (b), the" and insert "**The**".

Page 4, delete line 42.

Page 5, delete lines 1 through 3.

(Reference is to SB 368 as printed February 12, 2021.)

YOUNG M

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 368, 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 29, after "eighty" delete "days".

Page 3, delete lines 1 through 6.

Page 3, line 12, after "chapter." insert "**The date the petition is considered to be filed is the date when the child is found to be competent.**".

Page 4, line 8, delete "interest" and insert "**interests**".

Page 4, line 14, delete "interest" and insert "**interests**".

Page 4, line 35, delete "determine" and insert "**determined**".

Page 6, line 18, delete "child" and insert "**probation officer**".

Page 6, line 41, delete "be a misdemeanor" and insert "**not be a felony**".

Page 7, line 8, delete "be a misdemeanor" and insert "**not be a felony**".

Page 7, line 22, delete "be a misdemeanor" and insert "**not be a felony**".

Page 9, line 22, delete "or".

Page 9, between lines 22 and 23, begin a new line block indented and insert:

**"(2) a violation of IC 35-47-2; or"**.

Page 9, line 23, delete "(2)" and insert "**(3)**".

Page 10, after line 10, begin a new paragraph and insert:

"SECTION 6. IC 31-41-2-1, AS ADDED BY P.L.66-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. After a juvenile court has determined that a child is a dual status child, the juvenile court ~~shall~~ **may** refer the child



to be assessed by a dual status assessment team **after:**

- (1) considering the reports provided pursuant to IC 31-34-7-2 or IC 31-37-8-5; or**
- (2) making a determination pursuant to IC 31-34-10-2(e) or IC 31-37-12-2(e).**

**However, all children identified as a dual status child under IC 31-41-1-2(1) through IC 31-41-1-2(3), or IC 31-41-1-2(6), shall be referred to the dual status assessment team."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 368 as reprinted February 23, 2021.)

MCNAMARA

Committee Vote: yeas 11, nays 0.

