
SENATE BILL No. 410

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-6-24; IC 11-10-2-2; IC 11-13-6-4; IC 31-9-2-13; IC 31-30; IC 31-37; IC 31-39-3-2; IC 33-28-1-2; IC 33-29; IC 35-38-1; IC 35-41-4-2; IC 35-42-4; IC 35-50-2.

Synopsis: Juvenile law matters. Repeals provisions providing that juvenile courts do not have jurisdiction over juveniles charged with certain offenses. Provides that a delinquent offender under 13 years of age (rather than 12 years of age, under current law) or 23 years of age or older (rather than 18 years of age or older, under current law) may not be committed to the department of correction. Provides that a delinquent offender's: (1) commitment to the department of correction; or (2) parole; may extend until the offender reaches 25 years of age if the offender has been adjudicated delinquent for an act that would have been a Level 3 felony, a Level 2 felony, a Level 1 felony, or murder if committed by an adult. Provides that a circuit or superior court has original and concurrent jurisdiction over a case alleging that an individual committed a delinquent act if: (1) the delinquent act is an act over which the circuit or superior court would have jurisdiction if the act had been committed by an adult; and (2) either: (A) the juvenile courts lack jurisdiction over the case; or (B) the juvenile court waives the case to the circuit or superior court. Provides that a juvenile court may waive a child to adult court for prosecution for certain offenses if the child was 16 years of age or older (rather than 14 years of age or older, under current law) when the child allegedly committed the offense. Provides that a juvenile court may waive a child to adult court for prosecution for a Level 1, Level 2, Level 3, Level 4, or Level 5 felony relating to controlled substances (rather than for any felony relating to controlled substances, under current law). Provides that a juvenile court may waive a child to adult court for prosecution for murder if the child was at least 14 years of age (rather than 12 years of age)

(Continued next page)

Effective: July 1, 2023.

Glick

January 19, 2023, read first time and referred to Committee on Corrections and Criminal Law.



age, under current law), but less than 16 years of age, when the child allegedly committed the offense. Amends the list of offenses for which a juvenile court is required to waive a child to adult court upon motion of the prosecutor. Amends alternative sentencing provisions, under which a juvenile tried in adult court may be sentenced to a juvenile facility, to: (1) provide that a juvenile sentenced under the alternative sentencing provisions may be held in a juvenile facility until the juvenile becomes 25 years of age; (2) provide for court review of the juvenile's progress once the department of correction notifies the sentencing court that the juvenile has successfully completed a rehabilitation program or has served 18 months in the juvenile facility, whichever comes first; and (3) provide that if, after the court review, the court continues the juvenile's placement in a juvenile facility, the court shall conduct a review hearing at least once every 180 days until the objectives of the sentence have been met or the juvenile becomes 25 years of age, whichever occurs first. Provides that a child convicted of certain offenses may not be made a ward of the department of correction if the child is less than 13 years of age (rather than 12 years of age, under current law) or at least 23 years of age (rather than 18 years of age, under current law) at the time the child's dispositional decree is entered. Provides that: (1) a child who is at least 13 years of age and commits an act that would be murder if committed by an adult may be made a ward of the department of correction for a period that is not longer than seven years and that does not end later than the date the child becomes 25 years of age; and (2) a child who is at least 16 years of age and commits an act that would be one of several specified offenses if committed by an adult may be made a ward of the department of correction for a period that is not longer than five years and that does not end later than the date the child becomes 25 years of age. Provides: (1) a process under which a person convicted of an offense committed by the person when the person was less than 18 years of age may, not less than 15 years after the date of the conviction, petition a court for modification of the person's sentence; and (2) conditions under which a court may grant the petition. Provides that: (1) a person less than 18 years of age who, with a child who is younger than the person and less than 14 years of age, knowingly or intentionally performs or submits to sexual intercourse or other sexual conduct commits child sexual misconduct; and (2) the offense is a Class A misdemeanor, subject to enhancement



Introduced

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 410

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 5-2-6-24, AS AMENDED BY P.L.142-2018,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 24. (a) As used in this section, "criminal code
4 reform" refers to statutory provisions relating to criminal law enacted
5 by P.L.158-2013 and HEA 1006-2014.
6 (b) The institute shall monitor and evaluate criminal code reform as
7 described in this section.
8 (c) The institute shall annually gather data and analyze the impact
9 of criminal code reform on:
10 (1) local units of government;
11 (2) the department of correction; and
12 (3) the office of judicial administration.
13 (d) The institute shall prepare an annual report, in conjunction with
14 the justice reinvestment advisory council (established by
15 IC 33-38-9.5-2), containing the results of its analysis before December



1 of each year. The report shall be provided to the governor, the chief
 2 justice, and the legislative council. The report provided to the
 3 legislative council must be in an electronic format under IC 5-14-6.

4 (e) The report required under this section must:

5 (1) include an analysis of:

6 (A) the effect of criminal code reform on:

7 (i) county jails;

8 (ii) community corrections programs;

9 (iii) probation departments; and

10 (iv) courts;

11 (B) recidivism rates;

12 (C) reentry court programs; and

13 (D) data relevant to the availability and effectiveness of mental
 14 health and addiction programs for persons who are at risk of
 15 entering the criminal justice system, who are in the criminal
 16 justice system, and who have left the criminal justice system;

17 (2) track the number of requests for sentence modification that are
 18 set for hearing by the court, including the relief granted by the
 19 court, if any. The report must include whether the grant or denial
 20 of a request for sentence modification was discretionary or
 21 mandatory, and whether the prosecuting attorney opposed the
 22 request for sentence modification, agreed to the request for
 23 sentence modification, or took no position on the request for
 24 sentence modification;

25 (3) track, by age and offense, the number of juveniles under the
 26 jurisdiction of an adult court due to

27 ~~(A) lack of jurisdiction under IC 31-30-1-4; or~~

28 ~~(B) waiver of jurisdiction under IC 31-30-3-2 through~~
 29 ~~IC 31-30-3-6; and~~

30 ~~(4) track the number of juveniles under the jurisdiction of adult~~
 31 ~~court due to a juvenile court not having jurisdiction of the cases~~
 32 ~~in accordance with IC 31-30-1-4; by:~~

33 ~~(A) age;~~

34 ~~(B) sex;~~

35 ~~(C) race;~~

36 ~~(D) county of prosecution;~~

37 ~~(E) offenses charged;~~

38 ~~(F) convictions received; and~~

39 ~~(G) sentences received; and~~

40 ~~(5) (4) track the number of waivers of juvenile court jurisdiction~~
 41 ~~granted under IC 31-30-3-2 through IC 31-30-3-6 by:~~

42 (A) age;



- 1 (B) sex;
 2 (C) race;
 3 (D) charges filed in juvenile court in which a waiver was
 4 sought;
 5 (E) charges filed in adult court following the waiver of
 6 juvenile court jurisdiction;
 7 (F) county of prosecution;
 8 (G) convictions received; and
 9 (H) sentences received.
- 10 (f) All local units of government and local elected officials,
 11 including sheriffs, prosecuting attorneys, judges, and county fiscal
 12 bodies, shall cooperate with the institute by providing data as requested
 13 by the institute.
- 14 (g) State agencies, including the department of correction, the
 15 Indiana prosecuting attorneys council, the Indiana public defender
 16 council, and the office of judicial administration, shall assist the
 17 institute by providing requested data in a timely manner.
- 18 (h) Based on their analysis, the institute and the justice reinvestment
 19 advisory council shall include recommendations to improve the
 20 criminal justice system in Indiana, with particular emphasis being
 21 placed on recommendations that relate to sentencing policies and
 22 reform.
- 23 (i) The institute and the justice reinvestment advisory council shall
 24 include research data relevant to their analysis and recommendations
 25 in the report.
- 26 (j) The institute shall:
- 27 (1) make the data collected under subsection (e)(4) ~~and (e)(5)~~
 28 available to the public in an annual report, by fiscal year, due by
 29 October 30 of each year;
 30 (2) post the annual report required by subdivision (1) on the
 31 institute's Internet web site; and
 32 (3) provide a copy of the annual report required by subdivision (1)
 33 to the commission on improving the status of children in Indiana
 34 established by IC 2-5-36-3.
- 35 SECTION 2. IC 11-10-2-2 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. Except as provided
 37 by section 6 of this chapter, the commitment or award of guardianship
 38 of a delinquent offender to the department is governed by the
 39 following:
- 40 (1) All commitments are to the department as opposed to a
 41 specific facility. The department shall determine the facility or
 42 program assignment. The initial conveyance of an offender must



1 be to a place designated by the department.

2 (2) No offender under ~~twelve (12)~~ **thirteen (13)** years of age or
3 **eighteen (18) twenty-three (23)** years of age or older may be
4 committed to the department.

5 (3) No offender known to be pregnant may be committed to the
6 department.

7 SECTION 3. IC 11-13-6-4 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) ~~An~~ **A delinquent**
9 offender released on parole remains on parole until ~~he~~ **the offender**
10 reaches:

11 (1) twenty-one (21) years of age; or

12 (2) **twenty-five (25) years of age if the offender was**
13 **adjudicated delinquent for an act that would have been a**
14 **Level 3 felony, a Level 2 felony, a Level 1 felony, or murder if**
15 **committed by an adult;**

16 unless ~~his~~ **the offender's** parole is revoked or ~~he~~ **the offender** is
17 discharged before that time by the department.

18 (b) The department may discharge ~~him~~ **a delinquent offender** from
19 ~~his~~ **the offender's** commitment any time after ~~his~~ **the offender's**
20 release on parole and shall discharge ~~him~~ **the offender** when ~~he~~ **the**
21 **offender** reaches:

22 (1) twenty-one (21) years of age; or

23 (2) **twenty-five (25) years of age if the offender was**
24 **adjudicated delinquent for an act that would have been a**
25 **Level 3 felony, a Level 2 felony, a Level 1 felony, or murder if**
26 **committed by an adult.**

27 ~~(b)~~ (c) ~~An~~ **A delinquent** offender who is not on parole may be
28 unconditionally discharged by the department from ~~his~~ **the offender's**
29 commitment at any time and shall be unconditionally discharged from
30 ~~his~~ **the offender's** commitment upon reaching:

31 (1) twenty-one (21) years of age; or

32 (2) **twenty-five (25) years of age if the offender was**
33 **adjudicated delinquent for an act that would have been a**
34 **Level 3 felony, a Level 2 felony, a Level 1 felony, or murder if**
35 **committed by an adult.**

36 ~~(c)~~ (d) Upon discharge of ~~an~~ **a delinquent** offender from ~~his~~ **the**
37 **offender's** commitment under this section, the department shall certify
38 the discharge to the clerk of the committing court. Upon receipt of the
39 certification, the clerk shall make an entry on the record of judgment
40 that the commitment has been satisfied.

41 SECTION 4. IC 31-9-2-13, AS AMENDED BY P.L.243-2019,
42 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2023]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16
 2 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of
 3 both parties to the marriage. The term includes the following:

4 (1) Children born out of wedlock to the parties.

5 (2) Children born or adopted during the marriage of the parties.

6 (b) "Child", for purposes of the Uniform Interstate Family Support
 7 Act under IC 31-18.5, has the meaning set forth in IC 31-18.5-1-2.

8 (c) "Child", for purposes of IC 31-19-5, includes an unborn child.

9 (d) Except as otherwise provided in this section, "child", for
 10 purposes of the juvenile law and IC 31-27, means:

11 (1) a person who is less than eighteen (18) years of age;

12 (2) a person:

13 (A) who is eighteen (18), nineteen (19), or twenty (20) years
 14 of age; and

15 (B) who either:

16 (i) is charged with a delinquent act **that would be a**
 17 **misdemeanor, Level 6 felony, Level 5 felony, or Level 4**
 18 **felony if committed by an adult and that the person**
 19 committed before the person's eighteenth birthday; or

20 (ii) has been adjudicated a child in need of services before
 21 the person's eighteenth birthday; or

22 (3) a person:

23 (A) who is alleged to have committed an act that would have
 24 been a **Level 3 felony, a Level 2 felony, a Level 1 felony, or**
 25 murder if committed by an adult;

26 (B) who was less than eighteen (18) years of age at the time of
 27 the alleged act; and

28 (C) who is less than ~~twenty-one (21)~~ **twenty-five (25)** years of
 29 age.

30 (e) "Child", for purposes of IC 31-36-3, means a person who is less
 31 than eighteen (18) years of age.

32 (f) "Child", for purposes of the Interstate Compact on Juveniles
 33 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

34 (g) "Child", for purposes of IC 31-16-12.5, means an individual to
 35 whom child support is owed under:

36 (1) a child support order issued under IC 31-14-10 or IC 31-16-6;
 37 or

38 (2) any other child support order that is enforceable under
 39 IC 31-16-12.5.

40 (h) "Child", for purposes of IC 31-32-5, means an individual who is
 41 less than eighteen (18) years of age.

42 (i) "Child", for purposes of the Uniform Child Custody Jurisdiction



1 Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.

2 (j) "Child", for purposes of IC 31-35-2-4.5, means an individual who
3 is:

4 (1) less than eighteen (18) years of age; and

5 (2) a delinquent child or a child in need of services.

6 SECTION 5. IC 31-30-1-1, AS AMENDED BY P.L.172-2022,
7 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2023]: Sec. 1. A juvenile court has exclusive original
9 jurisdiction, except as provided in sections 9, 10, 12, and 13 of this
10 chapter **and IC 31-30-3-1**, in the following:

11 (1) Proceedings in which a child, including a child of divorced
12 parents, is alleged to be a delinquent child under IC 31-37.

13 (2) Proceedings in which a child, including a child of divorced
14 parents, is alleged to be a child in need of services under
15 IC 31-34.

16 (3) Proceedings concerning the paternity of a child under
17 IC 31-14.

18 (4) Proceedings under the interstate compact on juveniles under
19 IC 31-37-23.

20 (5) Proceedings governing the participation of a parent, guardian,
21 or custodian in a program of care, treatment, or rehabilitation for
22 a child under IC 31-34-20 or IC 31-37-15.

23 (6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and
24 IC 31-37-6 governing the detention of a child before a petition has
25 been filed.

26 (7) Proceedings to issue a protective order under IC 31-32-13.

27 (8) Proceedings in which a child less than sixteen (16) years of
28 age is alleged to have committed an act that would be a
29 misdemeanor traffic offense if committed by an adult.

30 (9) Proceedings in which a child is alleged to have committed an
31 act that would be an offense under IC 9-30-5 if committed by an
32 adult.

33 (10) Guardianship of the person proceedings for a child:

34 (A) who has been adjudicated as a child in need of services;

35 (B) for whom a juvenile court has approved a permanency
36 plan under IC 31-34-21-7 that provides for the appointment of
37 a guardian of the person; and

38 (C) who is the subject of a pending child in need of services
39 proceeding under IC 31-34.

40 (11) Proceedings concerning involuntary drug and alcohol
41 treatment under IC 31-32-16.

42 (12) Proceedings under the interstate compact for juveniles under



1 IC 11-13-4.5-1.5.

2 (13) Proceedings under IC 31-28-5.8.

3 (14) Other proceedings specified by law.

4 SECTION 6. IC 31-30-1-4 IS REPEALED [EFFECTIVE JULY 1,
5 2023]. Sec. 4: (a) The juvenile court does not have jurisdiction over an
6 individual for an alleged violation of:

7 (1) IC 35-41-5-1(a) (attempted murder);

8 (2) IC 35-42-1-1 (murder);

9 (3) IC 35-42-3-2 (kidnapping);

10 (4) IC 35-42-4-1 (rape);

11 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);

12 (6) IC 35-42-5-1 (robbery) if:

13 (A) the robbery was committed while armed with a deadly
14 weapon; or

15 (B) the robbery results in bodily injury or serious bodily
16 injury;

17 (7) IC 35-42-5-2 (carjacking) (before its repeal);

18 (8) IC 35-47-2-1.5 (unlawful carrying of a handgun); if charged
19 as a felony;

20 (9) IC 35-47-10 (children and firearms); if charged as a felony; or

21 (10) any offense that may be joined under IC 35-34-1-9(a)(2) with
22 any crime listed in this subsection;

23 if the individual was at least sixteen (16) years of age but less than
24 eighteen (18) years of age at the time of the alleged violation.

25 (b) Once an individual described in subsection (a) has been charged
26 with any offense listed in subsection (a); the court having adult
27 criminal jurisdiction shall retain jurisdiction over the case if the
28 individual pleads guilty to or is convicted of any offense listed in
29 subsection (a)(1) through (a)(9):

30 (c) If:

31 (1) an individual described in subsection (a) is charged with one
32 (1) or more offenses listed in subsection (a);

33 (2) all the charges under subsection (a)(1) through (a)(9) resulted
34 in an acquittal or were dismissed; and

35 (3) the individual pleads guilty to or is convicted of any offense
36 other than an offense listed in subsection (a)(1) through (a)(9);

37 the court having adult criminal jurisdiction may withhold judgment and
38 transfer jurisdiction to the juvenile court for adjudication and
39 disposition. In determining whether to transfer jurisdiction to the
40 juvenile court for adjudication and disposition, the court having adult
41 criminal jurisdiction shall consider whether there are appropriate
42 services available in the juvenile justice system; whether the child is



1 amenable to rehabilitation under the juvenile justice system; and
 2 whether it is in the best interests of the safety and welfare of the
 3 community that the child be transferred to juvenile court. All orders
 4 concerning release conditions remain in effect until a juvenile court
 5 detention hearing; which must be held not later than forty-eight (48)
 6 hours, excluding Saturdays, Sundays, and legal holidays; after the order
 7 of transfer of jurisdiction:

8 SECTION 7. IC 31-30-1-11 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) Except:

10 (1) as provided in section 9 of this chapter; or

11 (2) with respect to a case over which:

12 (A) a circuit court has jurisdiction under IC 33-28-1-2; or

13 (B) a superior court has jurisdiction under IC 33-29-1-1.5
 14 or IC 33-29-1.5-2;

15 if a court having criminal jurisdiction determines that a defendant is
 16 alleged to have committed a crime before the defendant is eighteen
 17 (18) years of age, the court shall immediately transfer the case, together
 18 with certified copies of all papers, documents, and testimony, to the
 19 juvenile court. The juvenile court shall proceed as if it had received a
 20 referral under IC 31-37-8.

21 (b) **Upon transferring a case to a juvenile court under subsection**
 22 **(a)**, the court having criminal jurisdiction shall release the child on the
 23 child's own recognizance or to the child's parent, guardian, or custodian
 24 upon that person's written promise to bring the child before the juvenile
 25 court at a specified time. However, the court may order the child
 26 detained if the court finds probable cause to believe that the child
 27 committed an act that would be a crime if committed by an adult and
 28 that:

29 (1) the child is unlikely to appear before the juvenile court for
 30 subsequent proceedings;

31 (2) detention is essential to protect the child or the community;

32 (3) the parent, guardian, or custodian:

33 (A) cannot be located; or

34 (B) is unable or unwilling to take custody of the child; or

35 (4) the child has a reasonable basis for requesting that he or she
 36 not be released.

37 If the child is detained for a reason specified by subdivision (3) or (4),
 38 the child must be detained in accordance with IC 31-37-7-1.

39 (c) If ~~the a child is not released;~~ **detained under subsection (b)**, the
 40 child shall be delivered to a place designated by the juvenile court. The
 41 court having criminal jurisdiction shall promptly notify the child's
 42 parent, guardian, or custodian and an intake officer of where the child



1 is being held and the reasons for the child's detention.

2 (d) A child transferred to the juvenile court under this section (or
3 IC 31-6-2-2 before its repeal) may not be released on bail.

4 SECTION 8. IC 31-30-3-1 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Waiver of
6 jurisdiction refers to an order of the juvenile court that waives the case
7 to a court that would have jurisdiction had the act been committed by
8 an adult. Waiver is for the offense charged and all included offenses.

9 (b) A:

10 (1) **circuit court has jurisdiction under IC 33-28-1-2 over a**
11 **case waived to the circuit court under this chapter; and**

12 (2) **superior court has jurisdiction under IC 33-29-1-1.5 or**
13 **IC 33-29-1.5-2, as applicable, over a case waived to the**
14 **superior court under this chapter.**

15 SECTION 9. IC 31-30-3-2, AS AMENDED BY P.L.67-2008,
16 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2023]: Sec. 2. Upon motion of the prosecuting attorney and
18 after full investigation and hearing, the juvenile court may waive
19 jurisdiction if it finds that:

20 (1) the child is charged with an act that is a felony:

21 (A) that is heinous or aggravated, with greater weight given to
22 acts against the person than to acts against property; or

23 (B) that is a part of a repetitive pattern of delinquent acts, even
24 though less serious;

25 (2) the child was at least ~~fourteen (14)~~ **sixteen (16)** years of age
26 when the act charged was allegedly committed;

27 (3) there is probable cause to believe that the child committed the
28 act;

29 (4) the child is beyond rehabilitation under the juvenile justice
30 system; and

31 (5) it is in the best interests of the safety and welfare of the
32 community that the child stand trial as an adult.

33 SECTION 10. IC 31-30-3-3 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. Upon motion of the
35 prosecuting attorney and after a full investigation and a hearing, the
36 court may waive jurisdiction if it finds that:

37 (1) the child is charged with an act that, if committed by an adult,
38 would be a **Level 1 felony, Level 2 felony, Level 3 felony, Level**
39 **4 felony, or Level 5** felony under IC 35-48-4;

40 (2) there is probable cause to believe that the child has committed
41 the act;

42 (3) the child was at least sixteen (16) years of age when the act



1 was allegedly committed; and
 2 (4) it is in the best interests of the safety and the welfare of the
 3 community for the child to stand trial as an adult.
 4 SECTION 11. IC 31-30-3-4, AS AMENDED BY P.L.187-2015,
 5 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2023]: Sec. 4. Upon motion of the prosecuting attorney and
 7 after full investigation and hearing, the juvenile court ~~shall~~ **may** waive
 8 jurisdiction if it finds that:

- 9 (1) the child is charged with an act that would be murder if
- 10 committed by an adult;
- 11 (2) there is probable cause to believe that the child has committed
- 12 the act; ~~and~~
- 13 (3) the child was at least ~~twelve (12)~~ **fourteen (14)** years of age,
- 14 **but less than sixteen (16) years of age**, when the act charged was
- 15 allegedly committed; ~~and~~
- 16 **(4) unless it would be is** in the best interests of the child and of
- 17 the safety and welfare of the community for the child to **remain**
- 18 **within the juvenile justice system: stand trial as an adult.**

19 SECTION 12. IC 31-30-3-5, AS AMENDED BY P.L.158-2013,
 20 SECTION 316, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2023]: Sec. 5. ~~Except for those cases in which~~
 22 ~~the juvenile court has no jurisdiction in accordance with IC 31-30-1-4,~~
 23 The court shall, upon motion of the prosecuting attorney and after full
 24 investigation and hearing, waive jurisdiction if it finds that:

- 25 (1) the child is charged with an act that, if committed by an adult,
- 26 would be:
- 27 (A) a ~~Level 1 felony; Level 2 felony; Level 3 felony; or Level~~
- 28 ~~4 felony; except a felony defined by IC 35-48-4;~~
- 29 (B) involuntary manslaughter as a Level 5 felony under
- 30 IC ~~35-42-1-4; or~~
- 31 (C) reckless homicide as a Level 5 felony under IC ~~35-42-1-5;~~
- 32 (A) **IC 35-41-5-1(a) (attempted murder);**
- 33 (B) **IC 35-42-1-1 (murder);**
- 34 (C) **IC 35-42-3-2 (kidnapping) if the kidnapping:**
- 35 (i) **is committed while armed with a deadly weapon;**
- 36 (ii) **results in serious bodily injury;**
- 37 (iii) **is committed with the intent to obtain ransom;**
- 38 (iv) **is committed while hijacking a vehicle;**
- 39 (v) **is committed with the intent to obtain the release, or**
- 40 **the intent to aid in the escape, of any person from lawful**
- 41 **incarceration or detention; or**
- 42 (vi) **is committed with the intent to use the kidnapped**



1 **person as a human shield or hostage;**
 2 **(D) IC 35-42-4-1 (rape); or**
 3 **(E) IC 35-42-5-1 (robbery) if the robbery:**
 4 **(i) is committed while armed with a deadly weapon; or**
 5 **(ii) results in bodily injury or serious bodily injury;**
 6 (2) there is probable cause to believe that the child has committed
 7 the act; and
 8 (3) the child was at least sixteen (16) years of age when the act
 9 charged was allegedly committed;
 10 unless it would be in the best interests of the child and of the safety and
 11 welfare of the community for the child to remain within the juvenile
 12 justice system.

13 SECTION 13. IC 31-30-4-1, AS ADDED BY P.L.104-2013,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2023]: Sec. 1. This chapter applies to the following:

- 16 (1) An offender who:
 17 ~~(A) is less than eighteen (18) years of age;~~
 18 ~~(B) (A) has been waived to a court with criminal jurisdiction~~
 19 ~~under IC 31-30-3; and~~
 20 ~~(C) (B) is charged as an adult offender.~~
 21 (2) An offender who
 22 ~~(A) is less than eighteen (18) years of age; and~~
 23 ~~(B) does is not come~~ under the jurisdiction of a juvenile court
 24 because the offender ~~is was~~ charged with an offense listed in
 25 IC 31-30-1-4 **(before its repeal).**

26 SECTION 14. IC 31-30-4-2, AS AMENDED BY P.L.168-2014,
 27 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2023]: Sec. 2. (a) Subject to subsection (c), if:

- 29 (1) an offender is:
 30 ~~(A) less than eighteen (18) years of age;~~
 31 ~~(B) (A) waived to a court with criminal jurisdiction under~~
 32 ~~IC 31-30-3 because the offender committed an act that would~~
 33 ~~be a felony if committed by an adult; and~~
 34 ~~(C) (B) convicted of committing the felony or enters a plea of~~
 35 ~~guilty to committing the felony; or~~
 36 (2) an offender is:
 37 ~~(A) less than eighteen (18) years of age;~~
 38 ~~(B) (A) charged with a felony over which a juvenile court does~~
 39 ~~not have jurisdiction under IC 31-30-1-4 (before its repeal);~~
 40 and
 41 ~~(C) (B) convicted of committing the felony by a court with~~
 42 ~~criminal jurisdiction or enters a plea of guilty to committing~~



1 the felony with the court;
 2 the court may, upon its own motion, a motion of the prosecuting
 3 attorney, or a motion of the offender's legal representative, impose a
 4 sentence upon the conviction of the offender under this chapter.

5 (b) If a court elects to impose a sentence upon conviction of an
 6 offender under subsection (a) and, before the offender is sentenced, the
 7 department of correction determines that there is space available for the
 8 offender in a juvenile facility of the division of youth services of the
 9 department, the sentencing court may:

10 (1) impose an appropriate criminal sentence on the offender under
 11 IC 35-50-2;

12 (2) suspend the criminal sentence imposed, notwithstanding
 13 IC 35-50-2-2 (before its repeal), IC 35-50-2-2.1, and
 14 IC 35-50-2-2.2;

15 (3) order the offender to be placed into the custody of the
 16 department of correction to be placed in the juvenile facility of the
 17 division of youth services; and

18 (4) provide that the successful completion of the placement of the
 19 offender in the juvenile facility is a condition of the suspended
 20 criminal sentence.

21 (c) The court may not impose a sentence on an offender under
 22 subsection (a) until:

23 (1) the prosecuting attorney has notified the victim of the felony
 24 of the possible imposition of a sentence on the offender under this
 25 chapter; and

26 (2) either:

27 (A) the probation department of the court has conducted a
 28 presentence investigation concerning the offender and reported
 29 its findings to the court; or

30 (B) the department of correction has conducted a diagnostic
 31 evaluation of the offender and reported its findings to the
 32 court.

33 SECTION 15. IC 31-30-4-5, AS AMENDED BY P.L.168-2014,
 34 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2023]: Sec. 5. (a) At the request of a sentencing court, the
 36 department of correction shall provide a progress report to the
 37 sentencing court concerning an offender sentenced and placed in a
 38 juvenile facility under section 2(b) of this chapter. When the offender
 39 becomes eighteen (18) years of age: **has successfully completed a**
 40 **rehabilitation program or has served eighteen (18) months in the**
 41 **juvenile facility, whichever comes first:**

42 (1) the department shall notify the sentencing court; and



1 (2) the sentencing court shall hold a review hearing concerning
 2 the offender ~~before the offender becomes nineteen (19) years of~~
 3 ~~age: not later than ninety (90) days after receiving the notice~~
 4 ~~under subdivision (1).~~

5 (b) ~~Except as provided in subsection (c);~~ After a hearing conducted
 6 under subsection (a), the sentencing court may:

7 (1) continue the offender's placement in a juvenile facility until
 8 the objectives of the sentence imposed on the offender have been
 9 met, if the sentencing court finds that the objectives of the
 10 sentence imposed on the offender have not been met;

11 (2) discharge the offender if the sentencing court finds that the
 12 objectives of the sentence imposed on the offender have been
 13 met;

14 (3) order execution of all or part of the offender's suspended
 15 criminal sentence in an adult facility of the department of
 16 correction; or

17 (4) place the offender:

18 (A) in home detention under IC 35-38-2.5;

19 (B) in a community corrections program under IC 35-38-2.6;

20 (C) on probation under IC 35-50-7; or

21 (D) in any other appropriate alternative sentencing program.

22 (c) ~~This subsection applies to an offender over whom a juvenile~~
 23 ~~court lacks jurisdiction under IC 31-30-1-4 who is convicted of one (1)~~
 24 ~~or more of the following offenses:~~

25 (1) ~~Murder (IC 35-42-1-1);~~

26 (2) ~~Attempted murder (IC 35-41-5-1);~~

27 (3) ~~Kidnapping (IC 35-42-3-2);~~

28 (4) ~~Rape as a Class A felony (for a crime committed before July~~
 29 ~~1, 2014) or a Level 1 felony (for a crime committed after June 30,~~
 30 ~~2014) (IC 35-42-4-1(b));~~

31 (5) ~~Criminal deviate conduct as a Class A felony (IC~~
 32 ~~35-42-4-2(b)) (before its repeal);~~

33 (6) ~~Robbery as a Class A felony (for a crime committed before~~
 34 ~~July 1, 2014) or a Level 2 felony (for a crime committed after~~
 35 ~~June 30, 2014) (IC 35-42-5-1), if:~~

36 (A) ~~the offense was committed while armed with a deadly~~
 37 ~~weapon; and~~

38 (B) ~~the offense resulted in bodily injury to any person other~~
 39 ~~than a defendant.~~

40 The court may not modify the original sentence of an offender to whom
 41 this subsection applies if the prosecuting attorney objects in writing to
 42 the modification. The prosecuting attorney shall set forth in writing the



1 prosecuting attorney's reasons for objecting to the sentence
2 modification.

3 **(c) If the sentencing court continues the offender's placement in**
4 **a juvenile facility after the hearing conducted under subsection (a),**
5 **the sentencing court shall conduct a review hearing at least once**
6 **every one hundred eighty (180) days until:**

7 **(1) the objectives of the sentence imposed on the offender have**
8 **been met; or**

9 **(2) the offender becomes twenty-five (25) years of age;**
10 **whichever occurs first.**

11 SECTION 16. IC 31-30-4-6, AS ADDED BY P.L.104-2013,
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2023]: Sec. 6. (a) At any time before an offender placed in a
14 juvenile facility under section 2(b) of this chapter becomes ~~twenty-one~~
15 **(21) twenty-five (25)** years of age, the department of correction may
16 transfer the offender to an adult facility if the department of correction
17 believes the offender is a safety or security risk to:

18 (1) the other offenders or the staff at the juvenile facility; or

19 (2) the public.

20 (b) If the department of correction transfers an offender to an adult
21 facility under this section, the department shall notify the sentencing
22 court of the circumstances of the transfer.

23 SECTION 17. IC 31-37-1-2, AS AMENDED BY P.L.84-2021,
24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2023]: Sec. 2. A child commits a delinquent act if, before
26 becoming eighteen (18) years of age, the child commits an act:

27 (1) that would be an offense if committed by an adult;

28 (2) in violation of IC 35-45-4-6 **(indecent display by a youth);**

29 **or**

30 (3) in violation of IC 35-47-10-5 **(dangerous possession and**
31 **unlawful transfer of a firearm); or**

32 **(4) in violation of IC 35-42-4-3.5 (child sexual misconduct);**

33 except an act committed by a person over which the juvenile court
34 lacks jurisdiction under IC 31-30-1.

35 SECTION 18. IC 31-37-19-7 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) With respect to
37 a wardship awarded under section 6(b)(2)(A) of this chapter, a child
38 may not be awarded to the department of correction, if the child:

39 (1) ~~except as provided by subsection (b);~~ is:

40 (A) less than ~~twelve (12)~~ **thirteen (13)** years of age; or

41 (B) at least ~~eighteen (18)~~ **twenty-three (23)** years of age;

42 at the time of the dispositional decree; or



1 (2) was determined to be a delinquent child because the child
 2 violated IC 7.1-5-7.
 3 (b) A wardship may be awarded to the department of correction if
 4 the child:
 5 (1) is ten (10) or eleven (11) years of age; and
 6 (2) is found to have committed an act that would have been
 7 murder if committed by an adult.
 8 (c) (b) The department of correction may not confine a delinquent
 9 child, except as provided in IC 11-10-2-10, at:
 10 (1) an adult correctional facility; or
 11 (2) a shelter care facility;
 12 that houses persons charged with, imprisoned for, or incarcerated for
 13 crimes unless the child is restricted to an area of the facility where the
 14 child may have not more than haphazard or incidental sight or sound
 15 contact with persons charged with, imprisoned for, or incarcerated for
 16 crimes.
 17 SECTION 19. IC 31-37-19-9, AS AMENDED BY P.L.214-2013,
 18 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2023]: Sec. 9. (a) This section applies if a child is a delinquent
 20 child under IC 31-37-1.
 21 (b) (a) After a juvenile court makes a determination under
 22 IC 11-8-8-5, the juvenile court may, in addition to an order under
 23 section 6 of this chapter, and if the a child:
 24 (1) is at least thirteen (13) years of age; and less than sixteen (16)
 25 years of age; and
 26 (2) committed an act that, if committed by an adult, would be
 27 (A) murder; (IC 35-42-1-1);
 28 (B) kidnapping (IC 35-42-3-2);
 29 (C) rape (IC 35-42-4-1);
 30 (D) criminal deviate conduct (IC 35-42-4-2) (repealed); or
 31 (E) robbery (IC 35-42-5-1) if the robbery was committed while
 32 armed with a deadly weapon or if the robbery resulted in
 33 bodily injury or serious bodily injury;
 34 the juvenile court may, in addition to an order under section 6 of
 35 this chapter, order wardship of the child to the department of
 36 correction for a fixed period that is not longer than seven (7) years and
 37 that does not end later than the date the child becomes eighteen (18)
 38 twenty-five (25) years of age, subject to IC 11-10-2-10.
 39 (b) If a child:
 40 (1) is at least sixteen (16) years of age; and
 41 (2) committed an act that, if committed by an adult, would be:
 42 (A) IC 35-41-5-1(a) (attempted murder);



- 1 **(B) IC 35-42-3-2 (kidnapping) if the kidnapping:**
- 2 (i) is committed while armed with a deadly weapon;
- 3 (ii) results in serious bodily injury;
- 4 (iii) is committed with the intent to obtain ransom;
- 5 (iv) is committed while hijacking a vehicle;
- 6 (v) is committed with the intent to obtain the release, or
- 7 the intent to aid in the escape, of any person from lawful
- 8 incarceration or detention; or
- 9 (vi) is committed with the intent to use the kidnapped
- 10 person as a human shield or hostage;
- 11 **(C) IC 35-42-4-1 (rape); or**
- 12 **(D) IC 35-42-5-1 (robbery) if the robbery:**
- 13 (i) is committed while armed with a deadly weapon; or
- 14 (ii) results in bodily injury or serious bodily injury;
- 15 **the juvenile court may, in addition to an order under section 6 of**
- 16 **this chapter, order wardship of the child to the department of**
- 17 **correction for a fixed period that is not longer than five (5) years**
- 18 **and that does not end later than the date the child becomes**
- 19 **twenty-five (25) years of age, subject to IC 11-10-2-10.**
- 20 (c) Notwithstanding IC 11-10-2-5, the department of correction may
- 21 not reduce the period ordered under this section (or
- 22 IC 31-6-4-15.9(b)(8) before its repeal).
- 23 SECTION 20. IC 31-37-19-10, AS AMENDED BY P.L.158-2013,
- 24 SECTION 331, IS AMENDED TO READ AS FOLLOWS
- 25 [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) This section applies to a
- 26 child who:
- 27 (1) is adjudicated a delinquent child for an act that if committed
- 28 by an adult would be:
- 29 (A) a felony against a person;
- 30 (B) a Level 1, Level 2, Level 3, or Level 4 felony that is a
- 31 controlled substances offense under IC 35-48-4-1 through
- 32 IC 35-48-4-5; or
- 33 (C) burglary as a Level 1, Level 2, Level 3, or Level 4 felony
- 34 under IC 35-43-2-1;
- 35 (2) is at least fourteen (14) years of age at the time the child
- 36 committed the act for which the child is being placed; and
- 37 (3) has two (2) unrelated prior adjudications of delinquency for
- 38 acts ~~that each of which~~ would be ~~felonies~~ **a felony** if committed
- 39 by an adult.
- 40 (b) A court may place the child in a facility authorized under this
- 41 chapter for not more than two (2) years.
- 42 (c) Notwithstanding IC 11-10-2-5, the department of correction may



1 not reduce the period ordered under this section (or IC 31-6-4-15.9(n)
2 before its repeal).

3 SECTION 21. IC 31-39-3-2, AS AMENDED BY P.L.86-2022,
4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2023]: Sec. 2. Except for information listed in
6 IC 5-14-3-4(a)(1) through IC 5-14-3-4(a)(15), the following
7 information contained in records involving allegations of delinquency
8 that would be a crime if committed by an adult is considered public
9 information:

10 (1) The nature of the offense allegedly committed and the
11 circumstances immediately surrounding the alleged offense,
12 including the time, location, and property involved.

13 (2) The identity of any victim.

14 (3) A description of the method of apprehension.

15 (4) Any instrument of physical force used.

16 (5) The identity of any officers assigned to the investigation,
17 except for the undercover units.

18 (6) The age and sex of any child apprehended or sought for the
19 alleged commission of the offense.

20 (7) The identity of a child, if the child is apprehended or sought
21 for the alleged commission of:

22 (A) an offense over which a juvenile court does not have
23 jurisdiction under IC 31-30-1-2; ~~and IC 31-30-1-4~~; or

24 (B) an act specified under IC 31-30-3-3.

25 SECTION 22. IC 33-28-1-2, AS AMENDED BY P.L.195-2019,
26 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2023]: Sec. 2. (a) All circuit courts have:

28 (1) original and concurrent jurisdiction in all civil cases and in all
29 criminal cases;

30 **(2) original and concurrent jurisdiction over a case alleging**
31 **that an individual committed a delinquent act under IC 31-37**
32 **if:**

33 **(A) the delinquent act is an act over which the circuit court**
34 **would have jurisdiction if the act had been committed by**
35 **an adult; and**

36 **(B) either:**

37 **(i) the juvenile courts lack jurisdiction over the case**
38 **under IC 31-30-1; or**

39 **(ii) the juvenile court waives the case to the circuit court**
40 **under IC 31-30-3;**

41 ~~(2)~~ **(3) original and concurrent jurisdiction with the superior**
42 **courts in all user fee cases;**



1 ~~(3)~~ **(4)** de novo appellate jurisdiction of appeals from city and
 2 town courts; and
 3 ~~(4)~~ **(5)** in Marion County, de novo appellate jurisdiction of
 4 appeals from township small claims courts established under
 5 IC 33-34.

6 (b) The circuit court also has the appellate jurisdiction that may be
 7 conferred by law upon it.

8 SECTION 23. IC 33-29-1-1.5, AS AMENDED BY P.L.195-2019,
 9 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2023]: Sec. 1.5. All standard superior courts have:

11 (1) original and concurrent jurisdiction in all civil cases and in all
 12 criminal cases;

13 **(2) original and concurrent jurisdiction over a case alleging**
 14 **that an individual committed a delinquent act under IC 31-37**
 15 **if:**

16 **(A) the delinquent act is an act over which the superior**
 17 **court would have jurisdiction if the act had been**
 18 **committed by an adult; and**

19 **(B) either:**

20 **(i) the juvenile courts lack jurisdiction over the case**
 21 **under IC 31-30-1; or**

22 **(ii) the juvenile court waives the case to the superior**
 23 **court under IC 31-30-3;**

24 ~~(2)~~ **(3)** original and concurrent jurisdiction with the circuit courts
 25 in all user fee cases;

26 ~~(3)~~ **(4)** de novo appellate jurisdiction of appeals from city and
 27 town courts; and

28 ~~(4)~~ **(5)** in Marion County, de novo appellate jurisdiction of
 29 appeals from township small claims courts established under
 30 IC 33-34.

31 SECTION 24. IC 33-29-1.5-2, AS AMENDED BY P.L.195-2019,
 32 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2023]: Sec. 2. All superior courts have:

34 (1) original and concurrent jurisdiction in all civil cases and in all
 35 criminal cases;

36 **(2) original and concurrent jurisdiction over a case alleging**
 37 **that an individual committed a delinquent act under IC 31-37**
 38 **if:**

39 **(A) the delinquent act is an act over which the superior**
 40 **court would have jurisdiction if the act had been**
 41 **committed by an adult; and**

42 **(B) either:**



- 1 **(i) the juvenile courts lack jurisdiction over the case**
- 2 **under IC 31-30-1; or**
- 3 **(ii) the juvenile court waives the case to the superior**
- 4 **court under IC 31-30-3;**
- 5 ~~(2)~~ **(3)** original and concurrent jurisdiction with the circuit courts
- 6 in all user fee cases;
- 7 ~~(3)~~ **(4)** de novo appellate jurisdiction of appeals from city and
- 8 town courts; and
- 9 ~~(4)~~ **(5)** in Marion County, de novo appellate jurisdiction of
- 10 appeals from township small claims courts established under
- 11 IC 33-34.

12 SECTION 25. IC 35-38-1-17, AS AMENDED BY P.L.45-2018,
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2023]: Sec. 17. (a) Notwithstanding IC 1-1-5.5-21, this section
 15 applies to a person:

- 16 **(1) who:**
- 17 ~~(1)~~ **(A)** commits an offense; or
- 18 ~~(2)~~ **(B)** is sentenced;
- 19 before July 1, 2014; **and**
- 20 **(2) who was eighteen (18) years of age or older at the time of**
- 21 **the offense.**

22 (b) This section does not apply to a credit restricted felon.

23 (c) Except as provided in subsections (k) and (m), this section does
 24 not apply to a violent criminal.

25 (d) As used in this section, "violent criminal" means a person
 26 convicted of any of the following offenses:

- 27 (1) Murder (IC 35-42-1-1).
- 28 (2) Attempted murder (IC 35-41-5-1).
- 29 (3) Voluntary manslaughter (IC 35-42-1-3).
- 30 (4) Involuntary manslaughter (IC 35-42-1-4).
- 31 (5) Reckless homicide (IC 35-42-1-5).
- 32 (6) Aggravated battery (IC 35-42-2-1.5).
- 33 (7) Kidnapping (IC 35-42-3-2).
- 34 (8) Rape (IC 35-42-4-1).
- 35 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 36 (10) Child molesting (IC 35-42-4-3).
- 37 (11) Sexual misconduct with a minor as a Class A felony under
- 38 IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2)
- 39 (for a crime committed before July 1, 2014) or sexual misconduct
- 40 with a minor as a Level 1 felony under IC 35-42-4-9(a)(2) or a
- 41 Level 2 felony under IC 35-42-4-9(b)(2) (for a crime committed
- 42 after June 30, 2014).



- 1 (12) Robbery as a Class A felony or a Class B felony (IC
 2 35-42-5-1) (for a crime committed before July 1, 2014) or robbery
 3 as a Level 2 felony or a Level 3 felony (IC 35-42-5-1) (for a crime
 4 committed after June 30, 2014).
- 5 (13) Burglary as Class A felony or a Class B felony (IC
 6 35-43-2-1) (for a crime committed before July 1, 2014) or
 7 burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or
 8 Level 4 felony (IC 35-43-2-1) (for a crime committed after June
 9 30, 2014).
- 10 (14) Unlawful possession of a firearm by a serious violent felon
 11 (IC 35-47-4-5).
- 12 (e) At any time after:
- 13 (1) a convicted person begins serving the person's sentence; and
 14 (2) the court obtains a report from the department of correction
 15 concerning the convicted person's conduct while imprisoned;
 16 the court may reduce or suspend the sentence and impose a sentence
 17 that the court was authorized to impose at the time of sentencing.
 18 However, if the convicted person was sentenced under the terms of a
 19 plea agreement, the court may not, without the consent of the
 20 prosecuting attorney, reduce or suspend the sentence and impose a
 21 sentence not authorized by the plea agreement. The court must
 22 incorporate its reasons in the record.
- 23 (f) If the court sets a hearing on a petition under this section, the
 24 court must give notice to the prosecuting attorney and the prosecuting
 25 attorney must give notice to the victim (as defined in IC 35-31.5-2-348)
 26 of the crime for which the convicted person is serving the sentence.
- 27 (g) The court may suspend a sentence for a felony under this section
 28 only if suspension is permitted under IC 35-50-2-2.2.
- 29 (h) The court may deny a request to suspend or reduce a sentence
 30 under this section without making written findings and conclusions.
- 31 (i) The court is not required to conduct a hearing before reducing or
 32 suspending a sentence under this section if:
- 33 (1) the prosecuting attorney has filed with the court an agreement
 34 of the reduction or suspension of the sentence; and
 35 (2) the convicted person has filed with the court a waiver of the
 36 right to be present when the order to reduce or suspend the
 37 sentence is considered.
- 38 (j) This subsection applies only to a convicted person who is not a
 39 violent criminal. A convicted person who is not a violent criminal may
 40 file a petition for sentence modification under this section:
- 41 (1) not more than one (1) time in any three hundred sixty-five
 42 (365) day period; and



- 1 (2) a maximum of two (2) times during any consecutive period of
 2 incarceration;
 3 without the consent of the prosecuting attorney.
- 4 (k) This subsection applies to a convicted person who is a violent
 5 criminal. A convicted person who is a violent criminal may, not later
 6 than three hundred sixty-five (365) days from the date of sentencing,
 7 file one (1) petition for sentence modification under this section
 8 without the consent of the prosecuting attorney. After the elapse of the
 9 three hundred sixty-five (365) day period, a violent criminal may not
 10 file a petition for sentence modification without the consent of the
 11 prosecuting attorney.
- 12 (l) A person may not waive the right to sentence modification under
 13 this section as part of a plea agreement. Any purported waiver of the
 14 right to sentence modification under this section in a plea agreement is
 15 invalid and unenforceable as against public policy. This subsection
 16 does not prohibit the finding of a waiver of the right to:
- 17 (1) have a court modify a sentence and impose a sentence not
 18 authorized by the plea agreement, as described under subsection
 19 (e); or
 20 (2) sentence modification for any other reason, including failure
 21 to comply with the provisions of this section.
- 22 (m) Notwithstanding subsection (k), a person who commits an
 23 offense after June 30, 2014, and before May 15, 2015, may file one (1)
 24 petition for sentence modification without the consent of the
 25 prosecuting attorney, even if the person has previously filed a petition
 26 for sentence modification.
- 27 SECTION 26. IC 35-38-1-17.1 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2023]: **Sec. 17.1. (a) Notwithstanding any**
 30 **other law to the contrary, a person convicted of an offense**
 31 **committed by the person:**
- 32 (1) when the person was less than eighteen (18) years of age;
 33 and
 34 (2) before, on, or after July 1, 2023;
 35 may, not less than fifteen (15) years after the date of the conviction,
 36 petition a court under this section for modification of the person's
 37 sentence for the offense.
- 38 (b) If a petition under subsection (a) contains a verified
 39 statement that the petitioner is indigent and desires the
 40 appointment of counsel for purposes of the petitioner's request for
 41 sentence modification, the court shall appoint counsel to represent
 42 the petitioner in seeking the sentence modification.



1 (c) A court with which a petition under subsection (a) is filed
2 shall transmit a copy of the petition to the prosecuting attorney.
3 The prosecuting attorney shall, not later than thirty (30) days after
4 receiving the petition, send notice of:

5 (1) the filing of the petition; and
6 (2) the rights of victims under Article 1, Section 13 of the
7 Constitution of the State of Indiana and IC 35-40;
8 to any victims of the offense for which the petitioner is seeking
9 sentence modification.

10 (d) The court with which a petition under subsection (a) is filed
11 shall conduct a hearing on the petition not later than ninety (90)
12 days after the petition is filed. At the hearing, the court shall
13 consider the following factors in deciding whether to grant the
14 petition:

15 (1) Whether the petitioner has substantially complied with the
16 rules of the institution in which the petitioner has been
17 confined, taking into consideration the age of the petitioner at
18 the time of any violations of the institution's rules.

19 (2) The nature of the offense and the history and
20 characteristics of the petitioner.

21 (3) Any statement offered by a victim, or representative of a
22 victim, of the offense.

23 (4) Any reports regarding a physical, mental, or behavioral
24 examination of the petitioner conducted by a health
25 professional.

26 (5) Influences that may have contributed to the petitioner's
27 behavior at the time of the offense, including a history of
28 trauma, neglect, abuse, or involvement in the child welfare
29 system.

30 (6) The role of the petitioner in the offense, and the extent to
31 which the petitioner's commission of the offense was
32 influenced by others.

33 (7) The diminished capacity of a juvenile as compared to an
34 adult, including an inability to fully appreciate risks and
35 consequences at the time of an offense.

36 (8) Any other consideration the court finds relevant.

37 (e) If, based on the court's consideration of the factors described
38 in subsection (d), the court finds that:

39 (1) the petitioner is not a danger to the public; and

40 (2) it is in the interest of justice to reduce or modify the
41 petitioner's sentence;

42 the court shall modify the petitioner's sentence.



1 **(f) A court shall issue the court's decision under subsection (e)**
 2 **in a writing that sets forth the basis for the decision, including a**
 3 **brief explanation of the court's reasoning with respect to the**
 4 **relevant factors under subsection (d).**

5 **(g) If a court:**

6 **(1) denies a petition filed under this section; or**

7 **(2) reduces or modifies the petitioner's sentence in such a**
 8 **manner that the offender remains confined five (5) years after**
 9 **the reduction or modification;**

10 **the petitioner may file another petition under this section.**

11 **(h) An individual may file no more than three (3) petitions**
 12 **under this section, not including any amendments made to a**
 13 **petition filed under this section before the court issues an order on**
 14 **the petition.**

15 **(i) A court's decision denying a petition under this section is**
 16 **appealable for abuse of discretion.**

17 SECTION 27. IC 35-41-4-2, AS AMENDED BY P.L.31-2020,
 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2023]: Sec. 2. (a) Except as otherwise provided in this section,
 20 a prosecution for an offense is barred unless it is commenced:

21 (1) within five (5) years after the commission of the offense, in
 22 the case of a Class B, Class C, or Class D felony (for a crime
 23 committed before July 1, 2014) or a Level 3, Level 4, Level 5, or
 24 Level 6 felony (for a crime committed after June 30, 2014); or

25 (2) within two (2) years after the commission of the offense, in the
 26 case of a misdemeanor.

27 (b) A prosecution for a Class B or Class C felony (for a crime
 28 committed before July 1, 2014) or a Level 3, Level 4, or Level 5 felony
 29 (for a crime committed after June 30, 2014) that would otherwise be
 30 barred under this section may be commenced within one (1) year after
 31 the earlier of the date on which the state:

32 (1) first discovers evidence sufficient to charge the offender with
 33 the offense through DNA (deoxyribonucleic acid) analysis; or

34 (2) could have discovered evidence sufficient to charge the
 35 offender with the offense through DNA (deoxyribonucleic acid)
 36 analysis by the exercise of due diligence.

37 (c) Except as provided in subsection (e), a prosecution for a Class
 38 A felony (for a crime committed before July 1, 2014) or a Level 1
 39 felony or Level 2 felony (for a crime committed after June 30, 2014)
 40 may be commenced at any time.

41 (d) A prosecution for murder may be commenced:

42 (1) at any time; and



- 1 (2) regardless of the amount of time that passes between:
 2 (A) the date a person allegedly commits the elements of
 3 murder; and
 4 (B) the date the alleged victim of the murder dies.
- 5 (e) Except as provided in subsection (p), a prosecution for the
 6 following offenses is barred unless commenced before the date that the
 7 alleged victim of the offense reaches thirty-one (31) years of age:
 8 (1) IC 35-42-4-3 (Child molesting).
 9 **(2) IC 35-42-4-3.5 (Child sexual misconduct).**
 10 ~~(2) (3)~~ IC 35-42-4-5 (Vicarious sexual gratification).
 11 ~~(3) (4)~~ IC 35-42-4-6 (Child solicitation).
 12 ~~(4) (5)~~ IC 35-42-4-7 (Child seduction).
 13 ~~(5) (6)~~ IC 35-42-4-9 (Sexual misconduct with a minor).
 14 ~~(6) (7)~~ IC 35-46-1-3 (Incest).
- 15 (f) A prosecution for forgery of an instrument for payment of
 16 money, or for the uttering of a forged instrument, under IC 35-43-5-2,
 17 is barred unless it is commenced within five (5) years after the maturity
 18 of the instrument.
- 19 (g) If a complaint, indictment, or information is dismissed because
 20 of an error, defect, insufficiency, or irregularity, a new prosecution may
 21 be commenced within ninety (90) days after the dismissal even if the
 22 period of limitation has expired at the time of dismissal, or will expire
 23 within ninety (90) days after the dismissal.
- 24 (h) The period within which a prosecution must be commenced does
 25 not include any period in which:
 26 (1) the accused person is not usually and publicly resident in
 27 Indiana or so conceals himself or herself that process cannot be
 28 served;
 29 (2) the accused person conceals evidence of the offense, and
 30 evidence sufficient to charge the person with that offense is
 31 unknown to the prosecuting authority and could not have been
 32 discovered by that authority by exercise of due diligence; or
 33 (3) the accused person is a person elected or appointed to office
 34 under statute or constitution, if the offense charged is theft or
 35 conversion of public funds or bribery while in public office.
- 36 (i) For purposes of tolling the period of limitation only, a
 37 prosecution is considered commenced on the earliest of these dates:
 38 (1) The date of filing of an indictment, information, or complaint
 39 before a court having jurisdiction.
 40 (2) The date of issuance of a valid arrest warrant.
 41 (3) The date of arrest of the accused person by a law enforcement
 42 officer without a warrant, if the officer has authority to make the



1 arrest.

2 (j) A prosecution is considered timely commenced for any offense
3 to which the defendant enters a plea of guilty, notwithstanding that the
4 period of limitation has expired.

5 (k) The following apply to the specified offenses:

6 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of
7 funeral trust funds) is barred unless commenced within five (5)
8 years after the date of death of the settlor (as described in
9 IC 30-2-9).

10 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse
11 of funeral trust funds) is barred unless commenced within five (5)
12 years after the date of death of the settlor (as described in
13 IC 30-2-10).

14 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse
15 of funeral trust or escrow account funds) is barred unless
16 commenced within five (5) years after the date of death of the
17 purchaser (as defined in IC 30-2-13-9).

18 (l) A prosecution for an offense under IC 23-2-6, IC 23-2.5,
19 IC 23-14-48-9, or IC 23-19 is barred unless commenced within five (5)
20 years after the earlier of the date on which the state:

21 (1) first discovers evidence sufficient to charge the offender with
22 the offense; or

23 (2) could have discovered evidence sufficient to charge the
24 offender with the offense by the exercise of due diligence.

25 (m) A prosecution for a sex offense listed in IC 11-8-8-4.5 that is
26 committed against a child and that is not:

27 (1) a Class A felony (for a crime committed before July 1, 2014)
28 or a Level 1 felony or Level 2 felony (for a crime committed after
29 June 30, 2014); or

30 (2) listed in subsection (e);

31 is barred unless commenced within ten (10) years after the commission
32 of the offense, or within four (4) years after the person ceases to be a
33 dependent of the person alleged to have committed the offense,
34 whichever occurs later.

35 (n) A prosecution for rape (IC 35-42-4-1) as a Class B felony (for a
36 crime committed before July 1, 2014) or as a Level 3 felony (for a
37 crime committed after June 30, 2014) that would otherwise be barred
38 under this section may be commenced not later than five (5) years after
39 the earlier of the date on which:

40 (1) the state first discovers evidence sufficient to charge the
41 offender with the offense through DNA (deoxyribonucleic acid)
42 analysis;



- 1 (2) the state first becomes aware of the existence of a recording
 2 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
 3 to charge the offender with the offense; or
 4 (3) a person confesses to the offense.
- 5 (o) A prosecution for criminal deviate conduct (IC 35-42-4-2)
 6 (repealed) as a Class B felony for a crime committed before July 1,
 7 2014, that would otherwise be barred under this section may be
 8 commenced not later than five (5) years after the earliest of the date on
 9 which:
- 10 (1) the state first discovers evidence sufficient to charge the
 11 offender with the offense through DNA (deoxyribonucleic acid)
 12 analysis;
- 13 (2) the state first becomes aware of the existence of a recording
 14 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
 15 to charge the offender with the offense; or
 16 (3) a person confesses to the offense.
- 17 (p) A prosecution for an offense described in subsection (e) that
 18 would otherwise be barred under this section may be commenced not
 19 later than five (5) years after the earliest of the date on which:
- 20 (1) the state first discovers evidence sufficient to charge the
 21 offender with the offense through DNA (deoxyribonucleic acid)
 22 analysis;
- 23 (2) the state first becomes aware of the existence of a recording
 24 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
 25 to charge the offender with the offense; or
 26 (3) a person confesses to the offense.
- 27 SECTION 28. IC 35-42-4-3, AS AMENDED BY P.L.78-2022,
 28 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2023]: Sec. 3. (a) A person **eighteen (18) years of age or**
 30 **older** who, with a child under fourteen (14) years of age, knowingly or
 31 intentionally performs or submits to sexual intercourse or other sexual
 32 conduct (as defined in IC 35-31.5-2-221.5) commits child molesting,
 33 a Level 3 felony. However, the offense is a Level 1 felony if:
- 34 (1) it is committed by a person at least twenty-one (21) years of
 35 age;
- 36 (2) it is committed by using or threatening the use of deadly force
 37 or while armed with a deadly weapon;
- 38 (3) it results in serious bodily injury;
- 39 (4) the commission of the offense is facilitated by furnishing the
 40 victim, without the victim's knowledge, with a drug (as defined in
 41 IC 16-42-19-2(1)) or a controlled substance (as defined in
 42 IC 35-48-1-9) or knowing that the victim was furnished with the



1 drug or controlled substance without the victim's knowledge; or
 2 (5) it results in the transmission of a serious sexually transmitted
 3 disease and the person knew that the person was infected with the
 4 disease.

5 (b) A person **eighteen (18) years of age or older** who, with a child
 6 under fourteen (14) years of age, performs or submits to any fondling
 7 or touching, of either the child or the older person, with intent to arouse
 8 or to satisfy the sexual desires of either the child or the older person,
 9 commits child molesting, a Level 4 felony. However, the offense is a
 10 Level 2 felony if:

- 11 (1) it is committed by using or threatening the use of deadly force;
 12 (2) it is committed while armed with a deadly weapon; or
 13 (3) the commission of the offense is facilitated by furnishing the
 14 victim, without the victim's knowledge, with a drug (as defined in
 15 IC 16-42-19-2(1)) or a controlled substance (as defined in
 16 IC 35-48-1-9) or knowing that the victim was furnished with the
 17 drug or controlled substance without the victim's knowledge.

18 (c) A person may be convicted of attempted child molesting of an
 19 individual at least fourteen (14) years of age if the person believed the
 20 individual to be a child under fourteen (14) years of age at the time the
 21 person attempted to commit the offense.

22 (d) It is a defense to a prosecution under this section that the
 23 accused person reasonably believed that the child was sixteen (16)
 24 years of age or older at the time of the conduct, unless:

- 25 (1) the offense is committed by using or threatening the use of
 26 deadly force or while armed with a deadly weapon;
 27 (2) the offense results in serious bodily injury; or
 28 (3) the commission of the offense is facilitated by furnishing the
 29 victim, without the victim's knowledge, with a drug (as defined in
 30 IC 16-42-19-2(1)) or a controlled substance (as defined in
 31 IC 35-48-1-9) or knowing that the victim was furnished with the
 32 drug or controlled substance without the victim's knowledge.

33 (e) In addition to any other penalty imposed for a violation of this
 34 section, the court shall order the person to pay restitution under
 35 IC 35-50-5-3 for expenses related to pregnancy and childbirth if the
 36 pregnancy is a result of the offense.

37 SECTION 29. IC 35-42-4-3.5 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2023]: **Sec. 3.5. (a) Except as provided in**
 40 **subsection (c), a person less than eighteen (18) years of age who,**
 41 **with a child who is younger than the person and less than fourteen**
 42 **(14) years of age, knowingly or intentionally performs or submits**



1 to sexual intercourse or other sexual conduct (as defined in
2 IC 35-31.5-2-221.5) commits child sexual misconduct, a Class A
3 misdemeanor. However, the offense is a Level 6 felony if:

4 (1) the person has a prior unrelated:

5 (A) adjudication as a delinquent child; or

6 (B) conviction for an offense under this section;

7 (2) the offense is committed by using or threatening the use of
8 deadly force or while armed with a deadly weapon;

9 (3) the offense results in serious bodily injury; or

10 (4) the person is four (4) or more years older than the child.

11 (b) A person less than eighteen (18) years of age who, with a
12 child who is younger than the person and less than fourteen (14)
13 years of age, performs or submits to any fondling or touching, of
14 either the person or the child, with intent to arouse or to satisfy the
15 sexual desires of either the person or the child, commits child
16 sexual misconduct, a Class B misdemeanor. However, the offense
17 is a Class A misdemeanor if:

18 (1) the person has a prior unrelated:

19 (A) adjudication as a delinquent child; or

20 (B) conviction for an offense under this section;

21 (2) the offense is committed by using or threatening the use of
22 deadly force;

23 (3) the offense is committed while armed with a deadly
24 weapon; or

25 (4) the person is four (4) or more years older than the child.

26 (c) A person less than eighteen (18) years of age who knowingly
27 or intentionally performs or submits to sexual intercourse or other
28 sexual conduct (as defined in IC 35-31.5-2-221.5) with a child who
29 is:

30 (1) at least six (6) years younger than the person; and

31 (2) less than twelve (12) years of age;

32 commits child sexual misconduct, a Level 5 felony.

33 SECTION 30. IC 35-50-2-3, AS AMENDED BY P.L.117-2015,
34 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2023]: Sec. 3. (a) A person who commits murder shall be
36 imprisoned for a fixed term of between forty-five (45) and sixty-five
37 (65) years, with the advisory sentence being fifty-five (55) years. In
38 addition, the person may be fined not more than ten thousand dollars
39 (\$10,000).

40 (b) Notwithstanding subsection (a), a person who was

41 (†) at least eighteen (18) years of age at the time the murder was
42 committed may be sentenced to:



1 (A) (1) death; or
 2 (B) (2) life imprisonment without parole; and
 3 (2) at least sixteen (16) years of age but less than eighteen (18)
 4 years of age at the time the murder was committed may be
 5 sentenced to life imprisonment without parole;

6 under section 9 of this chapter unless a court determines under
 7 IC 35-36-9 that the person is an individual with an intellectual
 8 disability.

9 SECTION 31. IC 35-50-2-9, AS AMENDED BY P.L.65-2016,
 10 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2023]: Sec. 9. (a) The state may seek either a death sentence
 12 or a sentence of life imprisonment without parole for murder by
 13 alleging, on a page separate from the rest of the charging instrument,
 14 the existence of at least one (1) of the aggravating circumstances listed
 15 in subsection (b). In the sentencing hearing after a person is convicted
 16 of murder, the state must prove beyond a reasonable doubt the
 17 existence of at least one (1) of the aggravating circumstances alleged.
 18 However, the state may not proceed against a defendant under this
 19 section if a court determines at a pretrial hearing under IC 35-36-9 that
 20 the defendant is an individual with an intellectual disability.

21 (b) The aggravating circumstances are as follows:

22 (1) The defendant committed the murder by intentionally killing
 23 the victim while committing or attempting to commit any of the
 24 following:

- 25 (A) Arson (IC 35-43-1-1).
- 26 (B) Burglary (IC 35-43-2-1).
- 27 (C) Child molesting (IC 35-42-4-3).
- 28 (D) Criminal deviate conduct (IC 35-42-4-2) (before its
 29 repeal).
- 30 (E) Kidnapping (IC 35-42-3-2).
- 31 (F) Rape (IC 35-42-4-1).
- 32 (G) Robbery (IC 35-42-5-1).
- 33 (H) Carjacking (IC 35-42-5-2) (before its repeal).
- 34 (I) Criminal organization activity (IC 35-45-9-3).
- 35 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- 36 (K) Criminal confinement (IC 35-42-3-3).

37 (2) The defendant committed the murder by the unlawful
 38 detonation of an explosive with intent to injure a person or
 39 damage property.

40 (3) The defendant committed the murder by lying in wait.

41 (4) The defendant who committed the murder was hired to kill.

42 (5) The defendant committed the murder by hiring another person



- 1 to kill.
- 2 (6) The victim of the murder was a corrections employee,
3 probation officer, parole officer, community corrections worker,
4 home detention officer, fireman, judge, or law enforcement
5 officer, and either:
- 6 (A) the victim was acting in the course of duty; or
7 (B) the murder was motivated by an act the victim performed
8 while acting in the course of duty.
- 9 (7) The defendant has been convicted of another murder.
- 10 (8) The defendant has committed another murder, at any time,
11 regardless of whether the defendant has been convicted of that
12 other murder.
- 13 (9) The defendant was:
- 14 (A) under the custody of the department of correction;
15 (B) under the custody of a county sheriff;
16 (C) on probation after receiving a sentence for the commission
17 of a felony; or
18 (D) on parole;
19 at the time the murder was committed.
- 20 (10) The defendant dismembered the victim.
- 21 (11) The defendant:
- 22 (A) burned, mutilated, or tortured the victim; or
23 (B) decapitated or attempted to decapitate the victim;
24 while the victim was alive.
- 25 (12) The victim of the murder was less than twelve (12) years of
26 age.
- 27 (13) The victim was a victim of any of the following offenses for
28 which the defendant was convicted:
- 29 (A) A battery offense included in IC 35-42-2 committed before
30 July 1, 2014, as a Class D felony or as a Class C felony, or a
31 battery offense included in IC 35-42-2 committed after June
32 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4
33 felony, or a Level 3 felony.
34 (B) Kidnapping (IC 35-42-3-2).
35 (C) Criminal confinement (IC 35-42-3-3).
36 (D) A sex crime under IC 35-42-4.
- 37 (14) The victim of the murder was listed by the state or known by
38 the defendant to be a witness against the defendant and the
39 defendant committed the murder with the intent to prevent the
40 person from testifying.
- 41 (15) The defendant committed the murder by intentionally
42 discharging a firearm (as defined in IC 35-47-1-5):



- 1 (A) into an inhabited dwelling; or
 2 (B) from a vehicle.
- 3 (16) The victim of the murder was pregnant and the murder
 4 resulted in the intentional killing of a fetus that has attained
 5 viability (as defined in IC 16-18-2-365).
- 6 (17) The defendant knowingly or intentionally:
 7 (A) committed the murder:
 8 (i) in a building primarily used for an educational purpose;
 9 (ii) on school property; and
 10 (iii) when students are present; or
 11 (B) committed the murder:
 12 (i) in a building or other structure owned or rented by a state
 13 educational institution or any other public or private
 14 postsecondary educational institution and primarily used for
 15 an educational purpose; and
 16 (ii) at a time when classes are in session.
- 17 (18) The murder is committed:
 18 (A) in a building that is primarily used for religious worship;
 19 and
 20 (B) at a time when persons are present for religious worship or
 21 education.
- 22 (c) The mitigating circumstances that may be considered under this
 23 section are as follows:
 24 (1) The defendant has no significant history of prior criminal
 25 conduct.
 26 (2) The defendant was under the influence of extreme mental or
 27 emotional disturbance when the murder was committed.
 28 (3) The victim was a participant in or consented to the defendant's
 29 conduct.
 30 (4) The defendant was an accomplice in a murder committed by
 31 another person, and the defendant's participation was relatively
 32 minor.
 33 (5) The defendant acted under the substantial domination of
 34 another person.
 35 (6) The defendant's capacity to appreciate the criminality of the
 36 defendant's conduct or to conform that conduct to the
 37 requirements of law was substantially impaired as a result of
 38 mental disease or defect or of intoxication.
 39 (7) The defendant was less than ~~eighteen (18)~~ **twenty-five (25)**
 40 years of age at the time the murder was committed.
 41 (8) Any other circumstances appropriate for consideration.
- 42 (d) If the defendant was convicted of murder in a jury trial, the jury



1 shall reconvene for the sentencing hearing. If the trial was to the court,
2 or the judgment was entered on a guilty plea, the court alone shall
3 conduct the sentencing hearing. The jury or the court may consider all
4 the evidence introduced at the trial stage of the proceedings, together
5 with new evidence presented at the sentencing hearing. The court shall
6 instruct the jury concerning the statutory penalties for murder and any
7 other offenses for which the defendant was convicted, the potential for
8 consecutive or concurrent sentencing, and the availability of
9 educational credit, good time credit, and clemency. The court shall
10 instruct the jury that, in order for the jury to recommend to the court
11 that the death penalty or life imprisonment without parole should be
12 imposed, the jury must find at least one (1) aggravating circumstance
13 beyond a reasonable doubt as described in subsection (l) and shall
14 provide a special verdict form for each aggravating circumstance
15 alleged. The defendant may present any additional evidence relevant
16 to:

17 (1) the aggravating circumstances alleged; or

18 (2) any of the mitigating circumstances listed in subsection (c).

19 (e) For a defendant sentenced after June 30, 2002, except as
20 provided by IC 35-36-9, if the hearing is by jury, the jury shall
21 recommend to the court whether the death penalty or life imprisonment
22 without parole, or neither, should be imposed. The jury may
23 recommend:

24 (1) the death penalty; or

25 (2) life imprisonment without parole;

26 only if it makes the findings described in subsection (l). If the jury
27 reaches a sentencing recommendation, the court shall sentence the
28 defendant accordingly. After a court pronounces sentence, a
29 representative of the victim's family and friends may present a
30 statement regarding the impact of the crime on family and friends. The
31 impact statement may be submitted in writing or given orally by the
32 representative. The statement shall be given in the presence of the
33 defendant.

34 (f) If a jury is unable to agree on a sentence recommendation after
35 reasonable deliberations, the court shall discharge the jury and proceed
36 as if the hearing had been to the court alone.

37 (g) If the hearing is to the court alone, except as provided by
38 IC 35-36-9, the court shall:

39 (1) sentence the defendant to death; or

40 (2) impose a term of life imprisonment without parole;

41 only if it makes the findings described in subsection (l).

42 (h) If a court sentences a defendant to death, the court shall order



1 the defendant's execution to be carried out not later than one (1) year
2 and one (1) day after the date the defendant was convicted. The
3 supreme court has exclusive jurisdiction to stay the execution of a
4 death sentence. If the supreme court stays the execution of a death
5 sentence, the supreme court shall order a new date for the defendant's
6 execution.

7 (i) If a person sentenced to death by a court files a petition for
8 post-conviction relief, the court, not later than ninety (90) days after the
9 date the petition is filed, shall set a date to hold a hearing to consider
10 the petition. If a court does not, within the ninety (90) day period, set
11 the date to hold the hearing to consider the petition, the court's failure
12 to set the hearing date is not a basis for additional post-conviction
13 relief. The attorney general shall answer the petition for post-conviction
14 relief on behalf of the state. At the request of the attorney general, a
15 prosecuting attorney shall assist the attorney general. The court shall
16 enter written findings of fact and conclusions of law concerning the
17 petition not later than ninety (90) days after the date the hearing
18 concludes. However, if the court determines that the petition is without
19 merit, the court may dismiss the petition within ninety (90) days
20 without conducting a hearing under this subsection.

21 (j) A death sentence is subject to automatic review by the supreme
22 court. The review, which shall be heard under rules adopted by the
23 supreme court, shall be given priority over all other cases. The supreme
24 court's review must take into consideration all claims that the:

25 (1) conviction or sentence was in violation of the:

26 (A) Constitution of the State of Indiana; or

27 (B) Constitution of the United States;

28 (2) sentencing court was without jurisdiction to impose a
29 sentence; and

30 (3) sentence:

31 (A) exceeds the maximum sentence authorized by law; or

32 (B) is otherwise erroneous.

33 If the supreme court cannot complete its review by the date set by the
34 sentencing court for the defendant's execution under subsection (h), the
35 supreme court shall stay the execution of the death sentence and set a
36 new date to carry out the defendant's execution.

37 (k) A person who has been sentenced to death and who has
38 completed state post-conviction review proceedings may file a written
39 petition with the supreme court seeking to present new evidence
40 challenging the person's guilt or the appropriateness of the death
41 sentence if the person serves notice on the attorney general. The
42 supreme court shall determine, with or without a hearing, whether the



1 person has presented previously undiscovered evidence that
 2 undermines confidence in the conviction or the death sentence. If
 3 necessary, the supreme court may remand the case to the trial court for
 4 an evidentiary hearing to consider the new evidence and its effect on
 5 the person's conviction and death sentence. The supreme court may not
 6 make a determination in the person's favor nor make a decision to
 7 remand the case to the trial court for an evidentiary hearing without
 8 first providing the attorney general with an opportunity to be heard on
 9 the matter.

10 (l) Before a sentence may be imposed under this section, the jury,
 11 in a proceeding under subsection (e), or the court, in a proceeding
 12 under subsection (g), must find that:

- 13 (1) the state has proved beyond a reasonable doubt that at least
 14 one (1) of the aggravating circumstances listed in subsection (b)
 15 exists; and
 16 (2) any mitigating circumstances that exist are outweighed by the
 17 aggravating circumstance or circumstances.

18 SECTION 32. IC 35-50-2-17, AS ADDED BY P.L.104-2013,
 19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2023]: Sec. 17. Notwithstanding any other provision of this
 21 chapter, if

22 (†) an offender is:

- 23 (A) (1) less than eighteen (18) years of age;
 24 (B) (2) waived to a court with criminal jurisdiction under
 25 IC 31-30-3 because the offender committed an act that would be
 26 a felony if committed by an adult; and
 27 (C) (3) convicted of committing the felony or enters a plea of
 28 guilty to committing the felony; or

29 (‡) an offender is:

- 30 (A) less than eighteen (18) years of age;
 31 (B) charged with a felony over which a juvenile court does not
 32 have jurisdiction under IC 31-30-1-4; and
 33 (C) convicted of committing the felony by a court with
 34 criminal jurisdiction or enters a plea of guilty to committing
 35 the felony with the court;

36 the court may impose a sentence upon the conviction of the offender
 37 under IC 31-30-4 concerning sentencing alternatives for certain
 38 offenders under criminal court jurisdiction.

