



January 31, 2020

SENATE BILL No. 449

DIGEST OF SB 449 (Updated January 28, 2020 8:05 pm - DI 106)

Citations Affected: IC 5-2; IC 31-30; IC 31-37.

Synopsis: Juveniles. For certain serious offenses committed by a juvenile: (1) reduces the minimum age for committing the child to the department of correction from 13 to 12; (2) adds an attempt to commit certain serious offenses to the list of serious offenses allowing wardship by the department of correction; and (3) permits the court to commit a juvenile to the department of correction for up to six years. Requires the department of correction to provide the court with a progress report for a child committed to the department for six years at the time the child turns 18, and requires the court to review the report and determine the appropriateness of release. Specifies that the juvenile court lacks jurisdiction over certain juveniles charged with an attempt to commit certain crimes. Establishes a two-year disproportionality review panel staffed by the Indiana criminal justice institute to study the issue of disparate racial impact with respect to juvenile court direct file, discretionary transfer, and waiver provisions.

Effective: July 1, 2020.

Houchin

January 16, 2020, read first time and referred to Committee on Corrections and Criminal Law.
January 30, 2020, amended, reported favorably — Do Pass.

SB 449—LS 6701/DI 106



January 31, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 449

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 5-2-6-26 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 26. (a) As used in this section, "panel" refers to the**
4 **disproportionality review panel created by subsection (b).**
5 **(b) The disproportionality review panel is created to examine**
6 **juvenile court direct file, discretionary transfer, and waiver**
7 **provisions for disparate racial impact.**
8 **(c) The panel consists of the following members:**
9 **(1) A representative of the judicial branch of government.**
10 **(2) A representative of the executive branch of government.**
11 **(3) A representative of a juvenile justice agency.**
12 **(4) A child advocate.**
13 **(5) A representative of a professional association that deals**
14 **with youth of color, appointed by the governor.**
15 **(6) Two (2) members of the house of representatives**
16 **appointed by the speaker of the house of representatives as**
17 **nonvoting members. The two (2) members appointed under**

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1 this section may not be of the same political party.

2 (7) Two (2) members of the senate appointed by the president
3 pro tempore as nonvoting members. The two (2) members
4 appointed under this section may not be of the same political
5 party.

6 (d) Nonlegislative members appointed under subsection (c) shall
7 be appointed by the governor and serve at the pleasure of the
8 governor.

9 (e) Each member of the panel who is not a state employee is not
10 entitled to the minimum salary per diem provided by
11 IC 4-10-11-2.1(b). The member is, however, entitled to
12 reimbursement for traveling expenses as provided under
13 IC 4-13-1-4 and other expenses actually incurred in connection
14 with the member's duties as provided in the state policies and
15 procedures established by the Indiana department of
16 administration and approved by the budget agency.

17 (f) Each member of the panel who is a state employee is entitled
18 to reimbursement for traveling expenses as provided under
19 IC 4-13-1-4 and to reimbursement of other expenses actually
20 incurred in connection with the member's duties as provided in the
21 state policies and procedures established by the Indiana
22 department of administration and approved by the budget agency.

23 (g) Each member of the panel who is a member of the general
24 assembly is entitled to receive the same per diem, mileage, and
25 travel allowances paid to legislative members of interim study
26 committees established by the legislative council. Per diem,
27 mileage, and travel allowances paid under this subsection shall be
28 paid from appropriations made to the legislative council or the
29 legislative services agency.

30 (h) The institute shall provide staff for the panel. The expenses
31 incurred by the panel under this section shall be paid from
32 appropriations made to the institute.

33 (i) The affirmative votes of a majority of the voting members
34 appointed to the panel are required for the panel to take action on
35 any measure, including reports.

36 (j) The panel has the duty to examine juvenile court direct file,
37 discretionary transfer, and waiver provisions for disparate racial
38 impact.

39 (k) Before November 1, 2021, the panel shall report its findings
40 to the legislative council. The report shall be in an electronic
41 format under IC 5-14-6.

42 (l) This section expires January 1, 2022.



1 SECTION 2. IC 31-30-1-4, AS AMENDED BY P.L.28-2016,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2020]: Sec. 4. (a) The juvenile court does not have jurisdiction
 4 over an individual for an alleged violation of:

- 5 (1) IC 35-41-5-1(a) (attempted murder);
 6 (2) IC 35-42-1-1 (murder);
 7 (3) IC 35-42-3-2 (kidnapping);
 8 (4) IC 35-42-4-1 (rape);
 9 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
 10 (6) IC 35-42-5-1 (robbery) if:
 11 (A) the robbery was committed while armed with a deadly
 12 weapon; or
 13 (B) the robbery results in bodily injury or serious bodily
 14 injury;
 15 (7) IC 35-42-5-2 (carjacking) (before its repeal);
 16 (8) IC 35-47-2-1 (carrying a handgun without a license), if
 17 charged as a felony;
 18 (9) IC 35-47-10 (children and firearms), if charged as a felony; ~~or~~
 19 (10) any offense that may be joined under IC 35-34-1-9(a)(2) with
 20 any crime listed in this subsection; **or**
 21 **(11) an attempt to commit an offense described in subdivisions**
 22 **(3) through (7).**

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 3. IC 31-37-19-6, AS AMENDED BY P.L.146-2008,
 9 SECTION 651, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) This section applies if a child
 11 is a delinquent child under IC 31-37-1.

12 (b) ~~Except as provided in section 10 of this chapter and~~ Subject to
 13 section 6.5 of this chapter, the juvenile court may:

14 (1) enter any dispositional decree specified in section 5 of this
 15 chapter; and

16 (2) take any of the following actions:

17 (A) Award wardship to:

18 (i) the department of correction for housing in a correctional
 19 facility for children; or

20 (ii) a community based correctional facility for children.

21 Wardship under this subdivision does not include the right to
 22 consent to the child's adoption.

23 (B) If the child is less than seventeen (17) years of age, order
 24 confinement in a juvenile detention facility for not more than
 25 the lesser of:

26 (i) ninety (90) days; or

27 (ii) the maximum term of imprisonment that could have
 28 been imposed on the child if the child had been convicted as
 29 an adult offender for the act that the child committed under
 30 IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

31 (C) If the child is at least seventeen (17) years of age, order
 32 confinement in a juvenile detention facility for not more than
 33 the lesser of:

34 (i) one hundred twenty (120) days; or

35 (ii) the maximum term of imprisonment that could have
 36 been imposed on the child if the child had been convicted as
 37 an adult offender for the act that the child committed under
 38 IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

39 (D) Remove the child from the child's home and place the
 40 child in another home or shelter care facility. Placement under
 41 this subdivision includes authorization to control and
 42 discipline the child.



- 1 (E) Award wardship to a:
 2 (i) person, other than the department; or
 3 (ii) shelter care facility.
 4 Wardship under this subdivision does not include the right to
 5 consent to the child's adoption.
 6 (F) Place the child in a secure private facility for children
 7 licensed under the laws of a state. Placement under this
 8 subdivision includes authorization to control and discipline the
 9 child.
 10 (G) Order a person who is a respondent in a proceeding under
 11 IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from
 12 direct or indirect contact with the child.
- 13 (c) If a dispositional decree under this section:
 14 (1) orders or approves removal of a child from the child's home,
 15 or awards wardship of the child to a:
 16 (A) person, other than the department; or
 17 (B) shelter care facility; and
 18 (2) is the first court order in the delinquent child proceeding that
 19 authorizes or approves removal of the child from the child's
 20 parent, guardian, or custodian;
 21 the juvenile court shall include in the decree the appropriate findings
 22 and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).
- 23 SECTION 4. IC 31-37-19-9, AS AMENDED BY P.L.214-2013,
 24 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2020]: Sec. 9. (a) This section applies if a child is a delinquent
 26 child under IC 31-37-1.
 27 (b) ~~After a juvenile court makes a determination under IC 11-8-8-5,~~
 28 The juvenile court may, in addition to an order under section 6 of this
 29 chapter, and if the child:
 30 (1) is at least ~~thirteen (13)~~ **twelve (12)** years of age and less than
 31 sixteen (16) years of age; and
 32 (2) committed an act that, if committed by an adult, would be:
 33 (A) murder (IC 35-42-1-1);
 34 (B) kidnapping (IC 35-42-3-2);
 35 (C) rape (IC 35-42-4-1);
 36 (D) criminal deviate conduct (IC 35-42-4-2) (repealed); ~~or~~
 37 (E) robbery (IC 35-42-5-1) if the robbery was committed while
 38 armed with a deadly weapon or if the robbery resulted in
 39 bodily injury or serious bodily injury; ~~or~~
 40 **(F) an attempt to commit an offense described in this**
 41 **subdivision;**
 42 order wardship of the child to the department of correction for a fixed



1 period that is not longer than ~~the date the child becomes eighteen (18)~~
2 ~~years of age; six (6) years~~, subject to IC 11-10-2-10. **When the child**
3 **reaches eighteen (18) years of age, the department shall submit a**
4 **progress report to the court. The court shall review the report and**
5 **determine whether release of the child is appropriate.**

6 (c) Notwithstanding IC 11-10-2-5, the department of correction may
7 not reduce the period ordered under this section (or
8 IC 31-6-4-15.9(b)(8) before its repeal).



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 449, 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:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 5-2-6-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 26. (a) As used in this section, "panel" refers to the disproportionality review panel created by subsection (b).**

(b) The disproportionality review panel is created to examine juvenile court direct file, discretionary transfer, and waiver provisions for disparate racial impact.

(c) The panel consists of the following members:

- (1) A representative of the judicial branch of government.**
- (2) A representative of the executive branch of government.**
- (3) A representative of a juvenile justice agency.**
- (4) A child advocate.**
- (5) A representative of a professional association that deals with youth of color, appointed by the governor.**
- (6) Two (2) members of the house of representatives appointed by the speaker of the house of representatives as nonvoting members. The two (2) members appointed under this section may not be of the same political party.**
- (7) Two (2) members of the senate appointed by the president pro tempore as nonvoting members. The two (2) members appointed under this section may not be of the same political party.**

(d) Nonlegislative members appointed under subsection (c) shall be appointed by the governor and serve at the pleasure of the governor.

(e) Each member of the panel who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(f) Each member of the panel who is a state employee is entitled to reimbursement for traveling expenses as provided under



IC 4-13-1-4 and to reimbursement of other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) Each member of the panel who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(h) The institute shall provide staff for the panel. The expenses incurred by the panel under this section shall be paid from appropriations made to the institute.

(i) The affirmative votes of a majority of the voting members appointed to the panel are required for the panel to take action on any measure, including reports.

(j) The panel has the duty to examine juvenile court direct file, discretionary transfer, and waiver provisions for disparate racial impact.

(k) Before November 1, 2021, the panel shall report its findings to the legislative council. The report shall be in an electronic format under IC 5-14-6.

(l) This section expires January 1, 2022."

Page 2, delete lines 1 through 34.

Page 3, delete line 42.

Page 4, delete lines 1 through 13.

Page 6, line 8, after "IC 11-10-2-10." insert "**When the child reaches eighteen (18) years of age, the department shall submit a progress report to the court. The court shall review the report and determine whether release of the child is appropriate.**"

Page 6, delete lines 12 through 42.

Delete page 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 449 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 4, Nays 2.

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