



Reprinted  
February 4, 2020

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## SENATE BILL No. 449

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DIGEST OF SB 449 (Updated February 3, 2020 6:22 pm - DI 106)

**Citations Affected:** IC 5-2; IC 11-10; IC 11-12; IC 31-30; IC 31-37; IC 35-33.

**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. Defines "young offender" and prohibits the department of correction from housing a young offender with the general population of a penal facility. Prohibits a jail from housing a child less than eighteen years of age in the same cell as an adult.

**Effective:** July 1, 2020.

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### Houchin, Young M, Freeman

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January 16, 2020, read first time and referred to Committee on Corrections and Criminal Law.

January 30, 2020, amended, reported favorably — Do Pass.

February 3, 2020, read second time, amended, ordered engrossed.

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SB 449—LS 6701/DI 106





Reprinted  
February 4, 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

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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**

SB 449—LS 6701/DI 106



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 11-10-1-8 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 3 1, 2020]: **Sec. 8. (a) As used in this section, "young offender" means**  
 4 **an offender (as defined in IC 11-8-1-9) who:**

- 5 (1) is less than twenty-one (21) years of age; and  
 6 (2) has been sentenced to the department by a court having  
 7 criminal jurisdiction.

8 (b) The department may not house a young offender in the  
 9 general population of a correctional facility.

10 (c) If the department houses a young offender in a facility or  
 11 part of a facility that is located on the same grounds or in the same  
 12 building as an adult facility, the facility must provide for the  
 13 following:

14 (1) Total separation between young offender and adult facility  
 15 spatial areas so that there could be no haphazard or  
 16 accidental contact among young offenders and adult residents  
 17 in the respective facilities. If space is used for both young  
 18 offenders and adults, time-phasing of the use is acceptable if  
 19 the arrangement precludes haphazard or accidental contact  
 20 among young offenders and adult residents at all times.  
 21 Sleeping or other living areas may not be shared under any  
 22 circumstances.

23 (2) Total separation in all young offender and adult program  
 24 activities within the facilities, including recreation, education,  
 25 counseling, health care, dining, sleeping, and general living  
 26 activities. Program activities may not be shared by young  
 27 offenders and adult residents. However, program space,  
 28 equipment, and other resources may be used by both young  
 29 offenders and adult residents subject to subdivision (1).

30 SECTION 3. IC 11-10-2-10 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 10. (a) The**  
 32 **commissioner may transfer a committed delinquent offender to an adult**  
 33 **facility or program according to the following requirements:**

34 (1) The offender must be seventeen (17) years of age or older at  
 35 the time of transfer.

36 (2) The department must determine that:

37 (A) either the offender is incorrigible to the degree that ~~his~~ **the**  
 38 **offender's** presence at a facility or program for delinquent  
 39 offenders is seriously detrimental to the welfare of other  
 40 offenders, or the transfer is necessary for the offender's own  
 41 physical safety or the physical safety of others; and

42 (B) there is no other action reasonably available to alleviate



- 1 the problem.
- 2 **(3) The offender is housed in a facility for young offenders, as**  
 3 **described in IC 11-10-1-8.**
- 4 ~~(3)~~ **(4)** No offender may be transferred to a **county jail**, the  
 5 Indiana state prison, or the Pendleton Correctional Facility.
- 6 **(b) Subject to IC 11-10-1-8 (housing for young offenders)**, the  
 7 offender is under the full custody of the adult facility or program to  
 8 which ~~he~~ **the offender** is transferred until ~~he~~ **the offender** is returned  
 9 to a facility or program for delinquent offenders, except that ~~his~~ **the**  
 10 **offender's** parole or discharge from the department shall be determined  
 11 under IC 11-13-6.
- 12 SECTION 4. IC 11-12-4-1 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) The department  
 14 shall adopt under IC 4-22-2 minimum standards for county jails  
 15 governing:
- 16 (1) general physical and environmental conditions;  
 17 (2) services and programs to be provided to confined persons; and  
 18 (3) procedures for the care and control of confined persons that  
 19 are necessary to ensure the health and safety of confined persons,  
 20 the security of the jail, and public safety.
- 21 However, the department may not adopt any standard that prohibits the  
 22 placement of more than one (1) prisoner in a prisoner cell that has  
 23 thirty-five (35) square feet or more of floor space per prisoner.
- 24 **(b) Standards adopted under this section must prohibit housing**  
 25 **a child less than eighteen (18) years of age in the same cell as an**  
 26 **adult, even if the child:**
- 27 **(1) is being charged as an adult; or**  
 28 **(2) has been convicted of a crime as an adult.**
- 29 **This subsection does not prohibit a child described in subdivision**  
 30 **(1) or (2) from being housed in the same cell as another child**  
 31 **described in subdivision (1) or (2).**
- 32 ~~(b)~~ **(c)** The standards must be sufficiently flexible to foster the  
 33 development of new and improved practices and to accommodate local  
 34 needs and circumstances. The standards must be consistent with the  
 35 laws of Indiana and the rules of the state department of health and the  
 36 fire prevention and building safety commission.
- 37 ~~(c)~~ **(d)** The commissioner shall select a committee of not less than  
 38 five (5) county sheriffs to consult with the department before and  
 39 during the drafting of the proposed minimum standards. County  
 40 sheriffs shall be selected from the various classes of counties to ensure  
 41 that densely, moderately, and sparsely populated counties are  
 42 represented. Each county sheriff is entitled to the minimum salary per



1 diem as provided in IC 4-10-11-2.1 for each day engaged in the official  
 2 business of the committee and to reimbursement for traveling and other  
 3 expenses, as provided in the state travel policies and procedures  
 4 established by the Indiana department of administration and approved  
 5 by the budget agency.

6 ~~(d)~~ (e) At least sixty (60) days before setting the date for a public  
 7 hearing under IC 4-22-2, the department shall forward copies of the  
 8 proposed minimum standards to each county sheriff and each board of  
 9 county commissioners and shall solicit their views and suggestions.

10 SECTION 5. IC 31-30-1-4, AS AMENDED BY P.L.28-2016,  
 11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2020]: Sec. 4. (a) The juvenile court does not have jurisdiction  
 13 over an individual for an alleged violation of:

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

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

34 (b) Once an individual described in subsection (a) has been charged  
 35 with any offense listed in subsection (a), the court having adult  
 36 criminal jurisdiction shall retain jurisdiction over the case if the  
 37 individual pleads guilty to or is convicted of any offense listed in  
 38 subsection (a)(1) through (a)(9).

39 (c) If:

- 40 (1) an individual described in subsection (a) is charged with one  
 41 (1) or more offenses listed in subsection (a);  
 42 (2) all the charges under subsection (a)(1) through (a)(9) resulted



1           in an acquittal or were dismissed; and  
 2           (3) the individual pleads guilty to or is convicted of any offense  
 3           other than an offense listed in subsection (a)(1) through (a)(9);  
 4           the court having adult criminal jurisdiction may withhold judgment and  
 5           transfer jurisdiction to the juvenile court for adjudication and  
 6           disposition. In determining whether to transfer jurisdiction to the  
 7           juvenile court for adjudication and disposition, the court having adult  
 8           criminal jurisdiction shall consider whether there are appropriate  
 9           services available in the juvenile justice system, whether the child is  
 10          amenable to rehabilitation under the juvenile justice system, and  
 11          whether it is in the best interests of the safety and welfare of the  
 12          community that the child be transferred to juvenile court. All orders  
 13          concerning release conditions remain in effect until a juvenile court  
 14          detention hearing, which must be held not later than forty-eight (48)  
 15          hours, excluding Saturdays, Sundays, and legal holidays, after the order  
 16          of transfer of jurisdiction.

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

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

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

25               (2) take any of the following actions:

26                   (A) Award wardship to:

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

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

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

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

35                           (i) ninety (90) days; or

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

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





- 1 (i) one hundred twenty (120) days; or  
 2 (ii) the maximum term of imprisonment that could have  
 3 been imposed on the child if the child had been convicted as  
 4 an adult offender for the act that the child committed under  
 5 IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).  
 6 (D) Remove the child from the child's home and place the  
 7 child in another home or shelter care facility. Placement under  
 8 this subdivision includes authorization to control and  
 9 discipline the child.  
 10 (E) Award wardship to a:  
 11 (i) person, other than the department; or  
 12 (ii) shelter care facility.  
 13 Wardship under this subdivision does not include the right to  
 14 consent to the child's adoption.  
 15 (F) Place the child in a secure private facility for children  
 16 licensed under the laws of a state. Placement under this  
 17 subdivision includes authorization to control and discipline the  
 18 child.  
 19 (G) Order a person who is a respondent in a proceeding under  
 20 IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from  
 21 direct or indirect contact with the child.  
 22 (c) If a dispositional decree under this section:  
 23 (1) orders or approves removal of a child from the child's home,  
 24 or awards wardship of the child to a:  
 25 (A) person, other than the department; or  
 26 (B) shelter care facility; and  
 27 (2) is the first court order in the delinquent child proceeding that  
 28 authorizes or approves removal of the child from the child's  
 29 parent, guardian, or custodian;  
 30 the juvenile court shall include in the decree the appropriate findings  
 31 and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).  
 32 SECTION 7. IC 31-37-19-9, AS AMENDED BY P.L.214-2013,  
 33 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2020]: Sec. 9. (a) This section applies if a child is a delinquent  
 35 child under IC 31-37-1.  
 36 (b) ~~After a juvenile court makes a determination under IC 11-8-8-5,~~  
 37 The juvenile court may, in addition to an order under section 6 of this  
 38 chapter, and if the child:  
 39 (1) is at least ~~thirteen (13)~~ **twelve (12)** years of age and less than  
 40 sixteen (16) years of age; and  
 41 (2) committed an act that, if committed by an adult, would be:  
 42 (A) murder (IC 35-42-1-1);



1 (B) kidnapping (IC 35-42-3-2);  
 2 (C) rape (IC 35-42-4-1);  
 3 (D) criminal deviate conduct (IC 35-42-4-2) (repealed); ~~or~~  
 4 (E) robbery (IC 35-42-5-1) if the robbery was committed while  
 5 armed with a deadly weapon or if the robbery resulted in  
 6 bodily injury or serious bodily injury; **or**  
 7 **(F) an attempt to commit an offense described in this**  
 8 **subdivision;**  
 9 order wardship of the child to the department of correction for a fixed  
 10 period that is not longer than ~~the date the child becomes eighteen (18)~~  
 11 ~~years of age; six (6) years~~, subject to IC 11-10-2-10. **When the child**  
 12 **reaches eighteen (18) years of age, the department shall submit a**  
 13 **progress report to the court. The court shall review the report and**  
 14 **determine whether release of the child is appropriate.**  
 15 (c) Notwithstanding IC 11-10-2-5, the department of correction may  
 16 not reduce the period ordered under this section (or  
 17 IC 31-6-4-15.9(b)(8) before its repeal).  
 18 SECTION 8. IC 35-33-11-3 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. Upon petition by the  
 20 sheriff alleging that:  
 21 (1) the local penal facility is overcrowded, ~~or~~ otherwise physically  
 22 inadequate to house inmates, **or unable to house a child in**  
 23 **accordance with the standards described in IC 11-12-4-1;** and  
 24 (2) another sheriff or the commissioner of the department of  
 25 correction has agreed to accept custody of inmates from the  
 26 sheriff;  
 27 the court may order inmates transferred to the custody of the person  
 28 who has agreed to accept custody. Whenever a transfer order is  
 29 necessary under this section, only inmates serving a sentence after  
 30 conviction for a crime may be transferred, unless the overcrowding or  
 31 inadequacy of the facility also requires transfer of inmates awaiting  
 32 trial or sentencing.



## 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.

SB 449—LS 6701/DI 106



## SENATE MOTION

Madam President: I move that Senate Bill 449 be amended to read as follows:

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 2. IC 11-10-1-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 8. (a) As used in this section, "young offender" means an offender (as defined in IC 11-8-1-9) who:**

- (1) is less than twenty-one (21) years of age; and**
- (2) has been sentenced to the department by a court having criminal jurisdiction.**

**(b) The department may not house a young offender in the general population of a correctional facility.**

**(c) If the department houses a young offender in a facility or part of a facility that is located on the same grounds or in the same building as an adult facility, the facility must provide for the following:**

**(1) Total separation between young offender and adult facility spatial areas so that there could be no haphazard or accidental contact among young offenders and adult residents in the respective facilities. If space is used for both young offenders and adults, time-phasing of the use is acceptable if the arrangement precludes haphazard or accidental contact among young offenders and adult residents at all times. Sleeping or other living areas may not be shared under any circumstances.**

**(2) Total separation in all young offender and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities. Program activities may not be shared by young offenders and adult residents. However, program space, equipment, and other resources may be used by both young offenders and adult residents subject to subdivision (1).**

SECTION 3. IC 11-10-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 10. (a) The commissioner may transfer a committed delinquent offender to an adult facility or program according to the following requirements:**

**(1) The offender must be seventeen (17) years of age or older at the time of transfer.**

**(2) The department must determine that:**

**(A) either the offender is incorrigible to the degree that ~~his~~ the offender's presence at a facility or program for delinquent**



offenders is seriously detrimental to the welfare of other offenders, or the transfer is necessary for the offender's own physical safety or the physical safety of others; and

(B) there is no other action reasonably available to alleviate the problem.

**(3) The offender is housed in a facility for young offenders, as described in IC 11-10-1-8.**

~~(3)~~ **(4)** No offender may be transferred to a county jail, the Indiana state prison, or the Pendleton Correctional Facility.

**(b) Subject to IC 11-10-1-8 (housing for young offenders)**, the offender is under the full custody of the adult facility or program to which ~~he~~ **the offender** is transferred until ~~he~~ **the offender** is returned to a facility or program for delinquent offenders, except that ~~his~~ **the offender's** parole or discharge from the department shall be determined under IC 11-13-6.

SECTION 4. IC 11-12-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) The department shall adopt under IC 4-22-2 minimum standards for county jails governing:

- (1) general physical and environmental conditions;
- (2) services and programs to be provided to confined persons; and
- (3) procedures for the care and control of confined persons that are necessary to ensure the health and safety of confined persons, the security of the jail, and public safety.

However, the department may not adopt any standard that prohibits the placement of more than one (1) prisoner in a prisoner cell that has thirty-five (35) square feet or more of floor space per prisoner.

**(b) Standards adopted under this section must prohibit housing a child less than eighteen (18) years of age in the same cell as an adult, even if the child:**

- (1) is being charged as an adult; or**
- (2) has been convicted of a crime as an adult.**

**This subsection does not prohibit a child described in subdivision (1) or (2) from being housed in the same cell as another child described in subdivision (1) or (2).**

~~(b)~~ **(c)** The standards must be sufficiently flexible to foster the development of new and improved practices and to accommodate local needs and circumstances. The standards must be consistent with the laws of Indiana and the rules of the state department of health and the fire prevention and building safety commission.

~~(c)~~ **(d)** The commissioner shall select a committee of not less than five (5) county sheriffs to consult with the department before and



during the drafting of the proposed minimum standards. County sheriffs shall be selected from the various classes of counties to ensure that densely, moderately, and sparsely populated counties are represented. Each county sheriff is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1 for each day engaged in the official business of the committee and to reimbursement for traveling and other expenses, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(d) (e) At least sixty (60) days before setting the date for a public hearing under IC 4-22-2, the department shall forward copies of the proposed minimum standards to each county sheriff and each board of county commissioners and shall solicit their views and suggestions."

Page 6, after line 8, begin a new paragraph and insert:

"SECTION 8. IC 35-33-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. Upon petition by the sheriff alleging that:

- (1) the local penal facility is overcrowded, ~~or~~ otherwise physically inadequate to house inmates, **or unable to house a child in accordance with the standards described in IC 11-12-4-1**; and
- (2) another sheriff or the commissioner of the department of correction has agreed to accept custody of inmates from the sheriff;

the court may order inmates transferred to the custody of the person who has agreed to accept custody. Whenever a transfer order is necessary under this section, only inmates serving a sentence after conviction for a crime may be transferred, unless the overcrowding or inadequacy of the facility also requires transfer of inmates awaiting trial or sentencing."

Re-number all SECTIONS consecutively.

(Reference is to SB 449 as printed January 31, 2020.)

HOUCHIN

