

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 2017 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1270

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-36-9, AS AMENDED BY P.L.13-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The commission shall do the following:

- (1) Study and evaluate the following:
 - (A) Access to services for vulnerable youth.
 - (B) Availability of services for vulnerable youth.
 - (C) Duplication of services for vulnerable youth.
 - (D) Funding of services available for vulnerable youth.
 - (E) Barriers to service for vulnerable youth.
 - (F) Communication and cooperation by agencies concerning vulnerable youth.
 - (G) Implementation of programs or laws concerning vulnerable youth.
 - (H) The consolidation of existing entities that serve vulnerable youth.
 - (I) Data from state agencies relevant to evaluating progress, targeting efforts, and demonstrating outcomes.
 - (J) Crimes of sexual violence against children.



- (K) The impact of social networking web sites, cellular telephones and wireless communications devices, digital media, and new technology on crimes against children.
- (2) Review and make recommendations concerning pending legislation.
- (3) Promote information sharing concerning vulnerable youth across the state.
- (4) Promote best practices, policies, and programs.
- (5) Cooperate with:
- (A) other child focused commissions;
 - (B) the judicial branch of government;
 - (C) the executive branch of government;
 - (D) stakeholders; and
 - (E) members of the community.
- (6) Submit a report not later than July 1 of each year regarding the commission's work during the previous year. The report shall be submitted to the legislative council, the governor, and the chief justice of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.
- (7) Study the topic of what specific authority a law enforcement officer has in order to take custody of or detain a child in certain situations where the officer believes a child may be a victim of human trafficking (as defined in IC 35-42-3.5-0.5) and who is potentially a child in need of services. This subdivision expires November 2, 2018.**

SECTION 2. IC 4-6-2-12, AS ADDED BY P.L.162-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 12. (a) The attorney general has the same authority as a law enforcement agency (as defined in IC 35-47-15-2) to:

- (1) access (as defined in IC 35-43-2-3); and
- (2) maintain;

information regarding a violation of IC 35-42-3.5-1 **through IC 35-42-3.5-1.4** (human trafficking).

(b) The attorney general may assist with the investigation and prosecution of an alleged violation of IC 35-42-3.5-1 **through IC 35-42-3.5-1.4** (human trafficking). However, the attorney general does not have the power to arrest or criminally prosecute individuals for a violation of IC 35-42-3.5-1 **through IC 35-42-3.5-1.4**.

SECTION 3. IC 11-8-8-4.5, AS AMENDED BY P.L.13-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4.5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person



convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
 - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
 - (B) the person is not more than:
 - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
 - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (IC 35-42-4-4(d) or IC 35-42-4-4(e)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).
- (15) Promotion of human **sexual** trafficking under ~~IC 35-42-3.5-1(a)(2)~~; **IC 35-42-3.5-1.1**.
- (16) Promotion of **human child sexual** trafficking of a **minor** under ~~IC 35-42-3.5-1(b)(1)(B) or IC 35-42-3.5-1(b)(2)~~; **IC 35-42-3.5-1.2(a)**.



(17) Promotion of sexual trafficking of a younger child (IC 35-42-3.5-1.2(c)).

~~(17) (18) Child sexual trafficking of a minor (IC 35-42-3.5-1(c)).~~
(IC 35-42-3.5-1.3).

~~(18) (19) Human trafficking under IC 35-42-3.5-1(d)(3)~~
IC 35-42-3.5-1.4 if the victim is less than eighteen (18) years of age.

~~(19) (20) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).~~

~~(20) (21) An attempt or conspiracy to commit a crime listed in this subsection.~~

~~(21) (22) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in this subsection.~~

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 4. IC 11-8-8-5, AS AMENDED BY P.L.13-2016, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).

(5) Vicarious sexual gratification (including performing sexual



conduct in the presence of a minor) (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:

(A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);

(B) the person is not more than:

(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or

(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (IC 35-42-4-4(d) or IC 35-42-4-4(e)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).

(15) Promotion of human **sexual** trafficking under ~~IC 35-42-3.5-1(a)(2)~~: **IC 35-42-3.5-1.1.**

(16) Promotion of **human child sexual** trafficking of a **minor** under ~~IC 35-42-3.5-1(b)(1)(B)~~ or ~~IC 35-42-3.5-1(b)(2)~~: **IC 35-42-3.5-1.2(a).**

(17) **Promotion of sexual trafficking of a younger child (IC 35-42-3.5-1.2(c)).**

~~(+7)~~ (18) **Child** sexual trafficking of a **minor** (~~IC 35-42-3.5-1(c)~~): **(IC 35-42-3.5-1.3).**

~~(+8)~~ (19) Human trafficking under ~~IC 35-42-3.5-1(d)(3)~~: **IC 35-42-3.5-1.4** if the victim is less than eighteen (18) years of



age.

~~(19)~~ **(20)** Murder (IC 35-42-1-1).

~~(20)~~ **(21)** Voluntary manslaughter (IC 35-42-1-3).

~~(21)~~ **(22)** Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

~~(22)~~ **(23)** An attempt or conspiracy to commit a crime listed in this subsection.

~~(23)~~ **(24)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in this subsection.

(b) The term includes:

(1) a person who is required to register as a sex or violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 5. IC 31-9-2-133.1, AS AMENDED BY P.L.86-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 133.1. "Victim of human or sexual trafficking", for purposes of IC 31-34-1-3.5, refers to a child who is recruited, harbored, transported, or engaged in:

(1) forced labor;

(2) involuntary servitude;

(3) prostitution;

(4) juvenile prostitution, as defined in IC 35-31.5-2-178.5;

(5) child exploitation, as defined in IC 35-42-4-4(b);

(6) marriage, unless authorized by a court under IC 31-11-1-6; **or**

(7) trafficking for the purpose of prostitution, juvenile prostitution, or participation in sexual conduct as defined in IC 35-42-4-4(a)(4); **or**



(8) human trafficking as defined in IC 35-42-3.5-0.5.

SECTION 6. IC 31-34-1-3, AS AMENDED BY P.L.183-2017, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child is the victim of an offense under:

- (A) IC 35-42-4-1;
- (B) IC 35-42-4-2 (before its repeal);
- (C) IC 35-42-4-3;
- (D) IC 35-42-4-4;
- (E) IC 35-42-4-5;
- (F) IC 35-42-4-6;
- (G) IC 35-42-4-7;
- (H) IC 35-42-4-8;
- (I) IC 35-42-4-9;
- (J) IC 35-45-4-1;
- (K) IC 35-45-4-2;
- (L) IC 35-45-4-3;
- (M) IC 35-45-4-4;
- (N) IC 35-46-1-3; or
- (O) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (N); and

(2) the child needs care, treatment, or rehabilitation that:

- (A) the child is not receiving; and
- (B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age, the child:

(1) lives in the same household as an adult who:

- (A) committed an offense described in subsection (a)(1) against a child and the offense resulted in a conviction or a judgment under IC 31-34-11-2; or
- (B) has been charged with an offense described in subsection (a)(1) against a child and is awaiting trial; and

(2) needs care, treatment, or rehabilitation that:

- (A) the child is not receiving; and
- (B) is unlikely to be provided or accepted without the coercive intervention of the court.

(c) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is



- the victim of an offense described in subsection (a)(1);
- (2) the child needs care, treatment, or rehabilitation that:
- (A) the child is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court; and
- (3) a caseworker assigned to provide services to the child:
- (A) places the child in a program of informal adjustment or other family or rehabilitative services based on the existence of the circumstances described in subdivisions (1) and (2), and the caseworker subsequently determines further intervention is necessary; or
 - (B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.
- (d) A child is a child in need of services if, before the child becomes eighteen (18) years of age:
- (1) the child lives in the same household as an adult who:
 - (A) committed a human or sexual trafficking offense under IC 35-42-3.5-1 **through IC 35-42-3.5-1.4** or the law of another jurisdiction, including federal law, that resulted in a conviction or a judgment under IC 31-34-11-2; or
 - (B) has been charged with a human or sexual trafficking offense under IC 35-42-3.5-1 **through IC 35-42-3.5-1.4** or the law of another jurisdiction, including federal law, and is awaiting trial; and
 - (2) the child needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 7. IC 31-34-21-5.6, AS AMENDED BY P.L.46-2016, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5.6. Except as provided in subsection (c), a court may make a finding described in this section at any phase of a child in need of services proceeding.

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family as described in section 5.5 of this chapter are not required if the court finds any of the following:

- (1) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:
 - (A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through IC 31-35-3-4(1)(J) against a victim who is:



- (i) a child described in IC 31-35-3-4(2); or
 - (ii) a parent of the child; or
 - (B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.
- (2) A parent, guardian, or custodian of a child who is a child in need of services:
- (A) has been convicted of:
 - (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or
 - (ii) a comparable offense described in item (i) in any other state, territory, or country; or
 - (B) has been convicted of:
 - (i) aiding, inducing, or causing another person;
 - (ii) attempting; or
 - (iii) conspiring with another person;
 to commit an offense described in clause (A).
- (3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:
- (A) battery as a Class A felony (for a crime committed before July 1, 2014) or Level 2 felony (for a crime committed after June 30, 2014);
 - (B) battery as a Class B felony (for a crime committed before July 1, 2014) or Level 3 or Level 4 felony (for a crime committed after June 30, 2014);
 - (C) battery as a Class C felony (for a crime committed before July 1, 2014) or Level 5 felony (for a crime committed after June 30, 2014);
 - (D) aggravated battery (IC 35-42-2-1.5);
 - (E) criminal recklessness (IC 35-42-2-2) as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
 - (F) neglect of a dependent (IC 35-46-1-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 1 or Level 3 felony (for a crime committed after June 30, 2014);
 - (G) promotion of human **labor** trafficking, promotion of human **sexual** trafficking, ~~of a minor, sexual trafficking of a minor, promotion of child sexual trafficking, promotion of sexual trafficking of a younger child, child sexual trafficking,~~ or human trafficking (~~IC 35-42-3.5-1~~ **IC 35-42-3.5-1 through IC 35-42-3.5-1.4**) as a felony; or



(H) a comparable offense described in clauses (A) through (G) under federal law or in another state, territory, or country; against a child described in IC 31-35-3-4(2)(B).

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

(A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);

(B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or

(C) any comparable law described in clause (A) or (B) in any other state, territory, or country.

(5) The child is an abandoned infant, provided that the court:

(A) has appointed a guardian ad litem or court appointed special advocate for the child; and

(B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child.

(c) During or at any time after the first periodic case review under IC 31-34-21-2 of a child in need of services proceeding, if the court finds that a parent, guardian, or custodian of the child has been charged with an offense described in subsection (b)(3) and is awaiting trial, the court may make a finding that reasonable efforts to reunify the child with the child's parent, guardian, or custodian or preserve the child's family as described in section 5.5 of this chapter may be suspended pending the disposition of the parent's, guardian's, or custodian's criminal charge.

SECTION 8. IC 32-30-7-1, AS AMENDED BY P.L.237-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. As used in this chapter, "indecent nuisance" means a:

(1) place in or upon which prostitution (as described in IC 35-45-4);

(2) public place in or upon which other sexual conduct (as defined in IC 35-31.5-2-221.5) or sexual intercourse (as defined in IC 35-31.5-2-302);

(3) public place in or upon which the fondling of the genitals of a person; or

(4) public place in or upon which human trafficking (as described in IC 35-42-3.5-1 **through IC 35-42-3.5-1.4**);



is conducted, permitted, continued, or exists, and the personal property and contents used in conducting and maintaining the place for such a purpose.

SECTION 9. IC 32-30-7-24.5, AS ADDED BY P.L.237-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 24.5. Money collected under this chapter concerning a public place in or upon which human trafficking (as described in IC 35-42-3.5-1 **through IC 35-42-3.5-1.4**) is conducted, permitted, continued, or exists, and the personal property and contents used in conducting and maintaining the place for such a purpose shall be distributed as follows:

- (1) Eighty percent (80%) of the money collected shall be deposited in the human trafficking prevention and victim assistance fund established by IC 5-2-6-25, to be used for the purposes of the fund.
- (2) Twenty percent (20%) of the money collected shall be transferred to the county auditor for deposit in the county general fund. Money deposited in the county general fund under this subdivision may only be appropriated to the prosecuting attorney to defray expenses incurred in the:
 - (A) collection of the funds; and
 - (B) investigation or prosecution of human trafficking.

SECTION 10. IC 33-37-5-23, AS AMENDED BY P.L.13-2016, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 23. (a) This section applies to criminal actions.

(b) The court shall assess a sexual assault victims assistance fee of at least five hundred dollars (\$500) and not more than five thousand dollars (\$5,000) against an individual convicted in Indiana of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual battery (IC 35-42-4-8).
- (9) Sexual misconduct with a minor as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 4 felony (for a crime committed after June 30, 2014) (IC 35-42-4-9).
- (10) Incest (IC 35-46-1-3).



(11) Promotion of human **labor** trafficking (~~IC 35-42-3.5-1(a)~~):
(IC 35-42-3.5-1).

(12) Promotion of human sexual trafficking (IC 35-42-3.5-1.1).

~~(12) (13) Promotion of human child sexual trafficking of a minor
(IC 35-42-3.5-1(b)):~~ **(IC 35-42-3.5-1.2(a)).**

**(14) Promotion of sexual trafficking of a younger child
(IC 35-42-3.5-1.2(c)).**

~~(13) (15) Child sexual trafficking of a minor (IC 35-42-3.5-1(c)):~~
(IC 35-42-3.5-1.3).

~~(14) (16) Human trafficking (IC 35-42-3.5-1(d)):~~
(IC 35-42-3.5-1.4).

SECTION 11. IC 34-24-1-1, AS AMENDED BY P.L.252-2017,
SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2018]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-31.5-2-346), if they are used
or are intended for use by the person or persons in possession of
them to transport or in any manner to facilitate the transportation
of the following:

(A) A controlled substance for the purpose of committing,
attempting to commit, or conspiring to commit any of the
following:

(i) Dealing in or manufacturing cocaine or a narcotic drug
(IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Manufacturing methamphetamine (IC 35-48-4-1.2).

(iv) Dealing in a schedule I, II, or III controlled substance
(IC 35-48-4-2).

(v) Dealing in a schedule IV controlled substance
(IC 35-48-4-3).

(vi) Dealing in a schedule V controlled substance
(IC 35-48-4-4).

(vii) Dealing in a counterfeit substance (IC 35-48-4-5).

(viii) Possession of cocaine or a narcotic drug
(IC 35-48-4-6).

(ix) Possession of methamphetamine (IC 35-48-4-6.1).

(x) Dealing in paraphernalia (IC 35-48-4-8.5).

(xi) Dealing in marijuana, hash oil, hashish, or salvia
(IC 35-48-4-10).

(xii) Dealing in a synthetic drug or synthetic drug lookalike
substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
amendment in 2013).

(B) Any stolen (IC 35-43-4-2) or converted property



(IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.

(C) Any hazardous waste in violation of IC 13-30-10-1.5.

(D) A bomb (as defined in IC 35-31.5-2-31) or weapon of mass destruction (as defined in IC 35-31.5-2-354) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-31.5-2-329).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Level 1, Level 2, Level 3, Level 4, or Level 5 felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Manufacturing methamphetamine (IC 35-48-4-1.2).

(D) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(E) Dealing in a schedule IV controlled substance (IC 35-48-4-3).



- (F) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).
- (G) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).
- (6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).
- (7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.
- (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).
- (9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.
- (10) Any equipment, including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.
- (11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.
- (12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.
- (13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.
- (14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:
 - (A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.
 - (B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.
- (15) Except as provided in subsection (e), a vehicle used by a person who operates the vehicle:
 - (A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two
 - (2) or more prior unrelated convictions:
 - (i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or



- (ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or
- (B) on a highway while the person's driving privileges are suspended in violation of IC 9-24-19-2 through IC 9-24-19-3, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:
 - (i) for operating a vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or
 - (ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a vehicle to be registered in the name of the person whose vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(16) The following real or personal property:

- (A) Property used or intended to be used to commit, facilitate, or promote the commission of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).
- (B) Property constituting, derived from, or traceable to the gross proceeds that a person obtains directly or indirectly as a result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(17) An automated sales suppression device (as defined in IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in IC 35-43-5-4.6(a)(3)).

(18) Real or personal property, including a vehicle, that is used by a person to:

- (A) commit, attempt to commit, or conspire to commit;
- (B) facilitate the commission of; or
- (C) escape from the commission of;

a violation of IC 35-42-3.5-1 **through IC 35-42-3.5-1.4** (human trafficking) or IC 35-45-4-4 (promoting prostitution).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it



can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

- (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).
- (2) IC 35-48-4-1.1 (dealing in methamphetamine).
- (3) IC 35-48-4-1.2 (manufacturing methamphetamine).
- (4) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
- (5) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- (6) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Level 4 felony.
- (7) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Level 3, Level 4, or Level 5 felony.
- (8) IC 35-48-4-6.1 (possession of methamphetamine) as a Level 3, Level 4, or Level 5 felony.
- (9) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or salvia) as a Level 5 felony.
- (10) IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic drug lookalike substance) as a Level 5 felony or Level 6 felony (or as a Class C felony or Class D felony under IC 35-48-4-10 before its amendment in 2013).

(e) A vehicle operated by a person who is not:

- (1) an owner of the vehicle; or
- (2) the spouse of the person who owns the vehicle;

is not subject to seizure under subsection (a)(15) unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15).

SECTION 12. IC 35-31.5-2-161.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 161.3. "Human trafficking" has the meaning set forth in IC 35-42-3.5-0.5.**



SECTION 13. IC 35-31.5-2-161.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 161.5. "Human trafficking victim" has the meaning set forth in IC 35-42-3.5-0.5.**

SECTION 14. IC 35-31.5-2-183, AS AMENDED BY P.L.162-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 183. (a) "Law enforcement agency," for purposes of receiving information concerning a violation of IC 35-42-3.5-1 **through IC 35-42-3.5-1.4** (human trafficking), means:

- (1) an agency or department of:
 - (A) the state; or
 - (B) a political subdivision of the state; whose principal function is the apprehension of criminal offenders; and
- (2) the attorney general.

(b) "Law enforcement agency", for purposes of IC 35-47-15, has the meaning set forth in IC 35-47-15-2.

SECTION 15. IC 35-31.5-2-300, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 300. (a) "Sexual conduct", for purposes of **IC 35-42-3.5-0.5 and IC 35-42-4-4**, has the meaning set forth in IC 35-42-4-4(a).

(b) "Sexual conduct", for purposes of IC 35-49, has the meaning set forth in IC 35-49-1-9.

SECTION 16. IC 35-32-2-3, AS AMENDED BY P.L.173-2006, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) A person who commits the offense of:

- (1) kidnapping;
- (2) criminal confinement;
- (3) **promotion of human labor** trafficking;
- (4) promotion of human **sexual** trafficking; ~~or~~
- (5) **promotion of child** sexual trafficking; ~~of a minor;~~
- (6) **promotion of sexual trafficking of a younger child;**
- (7) **child sexual trafficking; or**
- (8) **human trafficking;**

may be tried in a county in which the victim has traveled or has been confined during the course of the offense.

(b) A person who commits the offense of criminal confinement or interference with custody may be tried in a county in which the child who was removed, taken, concealed, or detained in violation of a child custody order:

- (1) was a legal resident at the time of the taking, concealment, or



- detention;
- (2) was taken, detained, or concealed; or
- (3) was found.

SECTION 17. IC 35-37-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) In a prosecution for a ~~sex crime as defined in IC 35-42-4~~ **an offense described in IC 11-8-8-4.5(a)**:

- (1) evidence of the victim's past sexual conduct;
- (2) evidence of the past sexual conduct of a witness other than the accused;
- (3) opinion evidence of the victim's past sexual conduct;
- (4) opinion evidence of the past sexual conduct of a witness other than the accused;
- (5) reputation evidence of the victim's past sexual conduct; and
- (6) reputation evidence of the past sexual conduct of a witness other than the accused;

may not be admitted, nor may reference be made to this evidence in the presence of the jury, except as provided in this chapter.

(b) Notwithstanding subsection (a), evidence:

- (1) of the victim's or a witness's past sexual conduct with the defendant;
- (2) which in a specific instance of sexual activity shows that some person other than the defendant committed the act upon which the prosecution is founded; or
- (3) that the victim's pregnancy at the time of trial was not caused by the defendant;

may be introduced if the judge finds, under the procedure provided in subsection (c), ~~of this section~~, that it is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(c) If the defendant or the state proposes to offer evidence described in subsection (b), ~~of this section~~, the following procedure must be followed:

- (1) The defendant or the state shall file a written motion not less than ten (10) days before trial stating that it has an offer of proof concerning evidence described in subsection (b) and its relevancy to the case. This motion shall be accompanied by an affidavit in which the offer of proof is stated.
- (2) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, and at the hearing allow the questioning of the victim or witness regarding the offer of proof made by the defendant or the state.



At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant or the state regarding the sexual conduct of the victim or witness is admissible under subsection (b), ~~of this section~~, the court shall make an order stating what evidence may be introduced by the defendant or the state and the nature of the questions to be permitted. The defendant or the state may then offer evidence under the order of the court.

(d) If new information is discovered within ten (10) days before trial or during the course of the trial that might make evidence described in subsection (b) ~~of this chapter~~ admissible, the judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under this chapter.

(e) This section does not limit the right of either the state or the accused to impeach credibility by a showing of prior felony convictions.

(f) If:

(1) a defendant files a motion under subsection (c)(1) concerning evidence described in subsection (b)(3); and

(2) the state acknowledges that the victim's pregnancy is not due to the conduct of the defendant;

the court shall instruct the jury that the victim's pregnancy is not due to the conduct of the defendant. However, other evidence concerning the pregnancy may not be admitted, and further reference to the pregnancy may not be made in the presence of the jury.

SECTION 18. IC 35-42-1-1, AS AMENDED BY P.L.252-2017, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. A person who:

(1) knowingly or intentionally kills another human being;

(2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct (under IC 35-42-4-2 before its repeal), kidnapping, rape, robbery, human trafficking, promotion of human **labor** trafficking, **promotion of human sexual trafficking, promotion of child sexual trafficking, promotion of sexual trafficking of a younger child, child sexual trafficking**, ~~of a minor~~; or carjacking (before its repeal);

(3) kills another human being while committing or attempting to commit:

(A) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);

(B) dealing in methamphetamine (IC 35-48-4-1.1);

(C) manufacturing methamphetamine (IC 35-48-4-1.2);



- (D) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (E) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
- (F) dealing in a schedule V controlled substance; or
- (4) knowingly or intentionally kills a fetus that has attained viability (as defined in IC 16-18-2-365);

commits murder, a felony.

SECTION 19. IC 35-42-3.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 0.5. (a) The following definitions apply throughout this chapter:**

- (1) "Human trafficking" means an offense described in sections 1 through 1.4 of this chapter.**
- (2) "Human trafficking victim" means a person who is the victim of human trafficking.**
- (3) "Sexual conduct" has the meaning set forth in IC 35-42-4-4.**

(b) As used in this chapter, "force", "threat of force", "coercion", or "fraud" means but is not limited to a person:

- (1) causing or threatening to cause physical harm to a human trafficking victim;**
- (2) physically restraining or threatening to physically restrain a human trafficking victim;**
- (3) abusing or threatening to abuse the law or legal process to further the act of human trafficking;**
- (4) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of the human trafficking victim;**
- (5) using blackmail or threatening to cause financial harm for the purpose of exercising financial control over the human trafficking victim; or**
- (6) facilitating or controlling a human trafficking victim's access to a controlled substance.**

SECTION 20. IC 35-42-3.5-1, AS AMENDED BY P.L.86-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 1. (a) A person who, by force, threat of force, coercion, or fraud, knowingly or intentionally recruits, harbors, provides, obtains, or transports another person: an individual**
(+) to engage the other person individual in



- (A) forced labor or services or
- (B) involuntary servitude; or
- (2) to force the other person into:
 - (A) marriage;
 - (B) prostitution; or
 - (C) participating in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human **labor** trafficking, a Level 4 felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:

- (1) eighteen (18) years of age with the intent of:
 - (A) engaging the child in:
 - (i) forced labor; or
 - (ii) involuntary servitude; or
 - (B) inducing or causing the child to:
 - (i) engage in prostitution or juvenile prostitution; or
 - (ii) engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) or IC 35-42-4-4(c) (child exploitation); or
- (2) sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor; a Level 3 felony. Except as provided in subsection (e); it is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or juvenile prostitution or to participate in sexual conduct.

(c) A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution, juvenile prostitution, or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor; a Level 2 felony.

(d) A person who knowingly or intentionally pays; offers to pay; or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

- (1) forced labor;
- (2) involuntary servitude; or
- (3) prostitution or juvenile prostitution;

commits human trafficking; a Level 5 felony.

(e) It is a defense to a prosecution under subsection (b)(2) if:

- (1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or



(2) all the following apply:

(A) The person is not more than four (4) years older than the victim;

(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship;

(C) The crime:

(i) was not committed by a person who is at least twenty-one (21) years of age;

(ii) was not committed by using or threatening the use of deadly force;

(iii) was not committed while armed with a deadly weapon;

(iv) did not result in serious bodily injury;

(v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(vi) was not committed by a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

SECTION 21. IC 35-42-3.5-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 1.1. A person who knowingly or intentionally uses force, threat of force, coercion, or fraud to recruit, entice, harbor, or transport an individual with the intent of causing the individual to:**

(1) marry another person;

(2) engage in prostitution; or

(3) participate in sexual conduct;

commits promotion of human sexual trafficking, a Level 4 felony.

SECTION 22. IC 35-42-3.5-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 1.2. (a) A person who knowingly or intentionally recruits, entices, harbors, or transports a child less than eighteen (18) years of age with the intent of causing the child to engage in:**



- (1) prostitution or juvenile prostitution; or**
- (2) a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) or IC 35-42-4-4(c) (child exploitation);**

commits promotion of child sexual trafficking, a Level 3 felony.

(b) It is not a defense to a prosecution under this section that the:

- (1) child consented to engage in prostitution or juvenile prostitution or to participate in sexual conduct; or**
- (2) intended victim of the offense is a law enforcement officer.**

(c) A person who knowingly or intentionally recruits, entices, harbors, or transports a child less than sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct commits promotion of sexual trafficking of a younger child, a Level 3 felony. It is a defense to a prosecution under this subsection if:

- (1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or**
- (2) all the following apply:**

(A) The person is not more than four (4) years older than the victim.

(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(C) The crime:

(i) was not committed by a person who is at least twenty-one (21) years of age;

(ii) was not committed by using or threatening the use of deadly force;

(iii) was not committed while armed with a deadly weapon;

(iv) did not result in serious bodily injury;

(v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(vi) was not committed by a person having a position of authority or substantial influence over the victim.



(D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

(E) The person is not promoting prostitution (as defined in IC 35-45-4-4) with respect to the victim even though the person has not been charged with or convicted of the offense.

SECTION 23. IC 35-42-3.5-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 1.3. A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution, juvenile prostitution, or participating in sexual conduct commits child sexual trafficking, a Level 2 felony.**

SECTION 24. IC 35-42-3.5-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 1.4. A person who knowingly or intentionally pays to, offers to pay to, agrees to pay money or other property to, or benefits in some other manner another person for a human trafficking victim or an act performed by a human trafficking victim commits human trafficking, a Level 5 felony.**

SECTION 25. IC 35-42-3.5-2, AS ADDED BY P.L.173-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 2.** In addition to any sentence or fine imposed for a conviction of an offense under ~~section~~ **sections 1 through 1.4** of this chapter, the court shall order the person convicted to make restitution to the victim of the crime under IC 35-50-5-3.

SECTION 26. IC 35-42-3.5-3, AS AMENDED BY P.L.106-2010, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 3.** (a) If a person is convicted of an offense under ~~section~~ **sections 1 through 1.4** of this chapter, the victim of the offense:

- (1) has a civil cause of action against the person convicted of the offense; and
 - (2) may recover the following from the person in the civil action:
 - (A) Actual damages.
 - (B) Court costs (including fees).
 - (C) Punitive damages, when determined to be appropriate by the court.
 - (D) Reasonable attorney's fees.
- (b) An action under this section must be brought not more than two



(2) years after the date the person is convicted of the offense under ~~section sections 1 through 1.4~~ of this chapter.

SECTION 27. IC 35-42-3.5-4, AS AMENDED BY P.L.23-2015, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) An alleged victim of an offense under ~~section sections 1 through 1.4~~ of this chapter:

- (1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;
- (2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and
- (3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:
 - (A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and
 - (B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the Indiana criminal justice institute as appropriate.

(b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under ~~section sections 1 through 1.4~~ of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

(c) If a law enforcement agency detains an alleged victim of an offense under ~~section sections 1 through 1.4~~ of this chapter who is less than eighteen (18) years of age, the law enforcement agency shall immediately notify the department of child services that the alleged



victim:

- (1) has been detained; and
- (2) may be a victim of child abuse or neglect.

SECTION 28. IC 35-42-4-9, AS AMENDED BY P.L.158-2013, SECTION 445, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) commits sexual misconduct with a minor, a Level 5 felony. However, the offense is:

- (1) a Level 4 felony if it is committed by a person at least twenty-one (21) years of age; and
- (2) a Level 1 felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Level 6 felony. However, the offense is:

- (1) a Level 5 felony if it is committed by a person at least twenty-one (21) years of age; and
- (2) a Level 2 felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(d) It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in



subsection (a)(2) or (b)(2).

(e) It is a defense to a prosecution under this section if all the following apply:

- (1) The person is not more than four (4) years older than the victim.
- (2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.
- (3) The crime:
 - (A) was not committed by a person who is at least twenty-one (21) years of age;
 - (B) was not committed by using or threatening the use of deadly force;
 - (C) was not committed while armed with a deadly weapon;
 - (D) did not result in serious bodily injury;
 - (E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and
 - (F) was not committed by a person having a position of authority or substantial influence over the victim.
- (4) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.
- (5) The person is not promoting prostitution (as defined in IC 35-45-4-4) with respect to the victim even though the person has not been charged with or convicted of the offense.**

SECTION 29. IC 35-45-1-5, AS AMENDED BY P.L.86-2017, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) As used in this section, "common nuisance" means a building, structure, vehicle, or other place that is used for (1) or more of the following purposes:

- (1) To buy an alcoholic beverage in violation of IC 7.1-5-10-5.
- (2) To unlawfully use, keep, or sell a legend drug.
- (3) To unlawfully:
 - (A) use;
 - (B) manufacture;
 - (C) keep;
 - (D) offer for sale;



(E) sell;
 (F) deliver; or
 (G) finance the delivery of;
 a controlled substance or an item of drug paraphernalia (as described in IC 35-48-4-8.5).

(4) To provide a location for a person to pay, offer to pay, or agree to pay money or other property to another person for ~~an individual whom the person knows has been forced into:~~ **a human trafficking victim or an act performed by a human trafficking victim.**

~~(A) forced labor;
 (B) involuntary servitude; or
 (C) prostitution or juvenile prostitution;~~

(5) To provide a location for a person to commit a violation of ~~IC 35-42-3.5-1(a)~~ **IC 35-42-3.5-1** through ~~IC 35-42-3.5-1(d)~~ **IC 35-42-3.5-1.4** (human trafficking).

(b) A person who knowingly or intentionally visits a common nuisance described in subsections (a)(1) through (a)(4) commits visiting a common nuisance. The offense is a:

(1) Class B misdemeanor if the common nuisance is used for the unlawful:

(A) sale of an alcoholic beverage as set forth in subsection (a)(1);
 (B) use, keeping, or sale of a legend drug as set forth in subsection (a)(2); or
 (C) use, manufacture, keeping, offer for sale, sale, delivery, or financing the delivery of a controlled substance or item of drug paraphernalia (as described in IC 35-48-4-8.5), as set forth in subsection (a)(3);

(2) Class A misdemeanor if:

(A) the common nuisance is used as a location for a person to pay, offer to pay, or agree to pay for ~~a person who has been forced into forced labor, involuntary servitude, prostitution, or juvenile prostitution~~ **a human trafficking victim or an act performed by a human trafficking victim** as set forth in subsection (a)(4); or
 (B) the person knowingly, intentionally, or recklessly takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a common nuisance used to unlawfully:

(i) use;
 (ii) manufacture;



- (iii) keep;
- (iv) offer for sale;
- (v) sell;
- (vi) deliver; or
- (vii) finance the delivery of;

a controlled substance or an item of drug paraphernalia, as set forth in subsection (a)(3); and

(3) Level 6 felony if the person:

(A) knowingly, intentionally, or recklessly takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a common nuisance used to unlawfully:

- (i) use;
- (ii) manufacture;
- (iii) keep;
- (iv) offer for sale;
- (v) sell;
- (vi) deliver; or
- (vii) finance the delivery of;

a controlled substance or an item of drug paraphernalia, as set forth in subsection (a)(3); and

(B) has a prior unrelated conviction for a violation of this section involving a controlled substance or drug paraphernalia.

(c) A person who knowingly or intentionally maintains a common nuisance commits maintaining a common nuisance, a Level 6 felony.

(d) It is a defense to a prosecution under subsection (c) that:

(1) the offense involves only the unlawful use or keeping of:

(A) less than:

- (i) thirty (30) grams of marijuana; or**
- (ii) five (5) grams of hash oil, hashish, or salvia; or**

(B) an item of drug paraphernalia (as described in IC 35-48-4-8.5) that is designed for use with, or intended to be used for, marijuana, hash oil, hashish, or salvia; and

(2) the person does not have a prior unrelated conviction for a violation of subsection (c).

SECTION 30. IC 35-45-4-2, AS AMENDED BY P.L.86-2017, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) A person at least eighteen (18) years of age who knowingly or intentionally:

- (1) performs, or offers or agrees to perform, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5); or
- (2) fondles, or offers or agrees to fondle, the genitals of another



person;

for money or other property commits prostitution, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has two (2) prior convictions under this section.

(b) It is a defense to a prosecution under this section that the person was a victim or an alleged victim of an offense under IC 35-42-3.5-1 **through IC 35-42-3.5-1.4** at the time the person engaged in the prohibited conduct.

SECTION 31. IC 35-45-4-3, AS AMENDED BY P.L.48-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. **(a)** A person who knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person:

(1) for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the person or with any other person; or

(2) for having fondled, or on the understanding that the other person will fondle, the genitals of the person or any other person; commits making an unlawful proposition, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has two (2) prior convictions under this section.

(b) It is not a defense to a prosecution under this section that the:

(1) child consented to engage in prostitution or juvenile prostitution or to participate in sexual conduct; or

(2) intended victim of the offense is a law enforcement officer.

SECTION 32. IC 35-45-4-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 7. If a law enforcement agency detains an alleged victim of an offense under this chapter who is less than eighteen (18) years of age, the law enforcement agency shall immediately notify the department of child services that the alleged victim:**

(1) has been detained; and

(2) may be a victim of child abuse or neglect.

SECTION 33. IC 35-46-1-9, AS AMENDED BY P.L.113-2017, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) As used in this section, "resident" means an individual who has a physical presence in a state with the intention of remaining indefinitely in that state.

(b) This section does not apply if the:

(1) birth mother is not a resident of Indiana; and



(2) adoption takes place in a jurisdiction outside Indiana.

(c) Except as provided in subsection (d), a person who, with respect to an adoption, transfers or receives any property in connection with the waiver of parental rights, the termination of parental rights, the consent to adoption, or the petition for adoption commits profiting from an adoption, a Level 6 felony.

(d) This section does not apply to the transfer or receipt of:

- (1) reasonable attorney's fees;
- (2) hospital and medical expenses concerning childbirth and pregnancy incurred by the adopted person's birth mother;
- (3) reasonable charges and fees levied by a child placing agency licensed under IC 31-27 or the department of child services, **including reasonable charges and fees for adoption services (as described in section 22 of this chapter);**
- (4) reasonable expenses for psychological counseling relating to adoption incurred by the adopted person's birth parents;
- (5) reasonable costs of housing, utilities, and phone service for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth;
- (6) reasonable costs of maternity clothing for the adopted person's birth mother;
- (7) reasonable travel expenses incurred by the adopted person's birth mother that relate to the pregnancy or adoption;
- (8) any additional itemized necessary living expenses for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth, not listed in subdivisions (5) through (7) in an amount not to exceed one thousand dollars (\$1,000); ~~or~~
- (9) other charges and fees approved by the court supervising the adoption, including reimbursement of not more than actual wages lost as a result of the inability of the adopted person's birth mother to work at her regular, existing employment due to a medical condition, excluding a psychological condition, if:
 - (A) the attending physician of the adopted person's birth mother has ordered or recommended that the adopted person's birth mother discontinue her employment; and
 - (B) the medical condition and its direct relationship to the pregnancy of the adopted person's birth mother are documented by her attending physician; ~~or~~
- (10) reasonable charges and fees for adoption services (as described in section 22 of this chapter) provided by an attorney licensed to practice law in Indiana.**



In determining the amount of reimbursable lost wages, if any, that are reasonably payable to the adopted person's birth mother under subdivision (9), the court shall offset against the reimbursable lost wages any amounts paid to the adopted person's birth mother under subdivisions (5) and (8) and any unemployment compensation received by or owed to the adopted person's birth mother.

(e) Except as provided in this subsection, payments made under subsection (d)(5) through (d)(9) may not exceed four thousand dollars (\$4,000) and must be disclosed to the court supervising the adoption. The amounts paid under subsection (d)(5) through (d)(9) may exceed four thousand dollars (\$4,000) to the extent that a court with jurisdiction over the child who is the subject of the adoption approves the expenses after determining that:

- (1) the expenses are not being offered as an inducement to proceed with an adoption; and
- (2) failure to make the payments may seriously jeopardize the health of either the child or the mother of the child and the direct relationship is documented by a licensed social worker or the attending physician.

(f) The payment limitation under subsection (e) applies to the total amount paid under subsection (d)(5) through (d)(9) in connection with an adoption from all prospective adoptive parents, attorneys, and licensed child placing agencies.

(g) An attorney or licensed child placing agency shall inform a birth mother of the penalties for committing adoption deception under section 9.5 of this chapter before the attorney or agency transfers a payment for adoption related expenses under subsection (d) in relation to the birth mother.

(h) The limitations in this section apply regardless of the state or country in which the adoption is finalized.

SECTION 34. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "human trafficking" means an offense described in IC 35-42-3.5-1 through IC 35-42-3.5-1.4.

(b) The legislative council is urged to assign to an appropriate interim study committee the task of studying the following topics:

- (1) Creating a single point of contact for law enforcement during an investigation when there is a potential human trafficking victim involved.**
- (2) Determining whether a state agency should provide oversight and administer programs to stop human trafficking in Indiana.**
- (3) Establishing a program for helping adult victims of human**



trafficking in Indiana, similar to how the department of child services handles child victims of human trafficking.

(4) Review of the penalties for human trafficking crimes in the Indiana criminal code.

(c) This SECTION expires November 2, 2018.

SECTION 34. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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