

HOUSE BILL No. 1312

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-22-1; IC 20-26-5-11.2; IC 31-9-2-84.8; IC 31-34-12-9; IC 35-46-1-4.

Synopsis: Minimum age to leave child unattended. Provides that a person having the care of a dependent child who is less than 10 years of age, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally leaves the child unattended for an unreasonable amount of time commits neglect of a dependent, a Class A misdemeanor. Makes conforming changes.

Effective: July 1, 2024.

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January 10, 2024, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1312

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

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

1 SECTION 1. IC 5-2-22-1, AS AMENDED BY P.L.161-2018,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 1. The following definitions apply throughout this
4 chapter:

- 5 (1) "Crime of child abuse" means:
 - 6 (A) neglect of a dependent (IC 35-46-1-4) if the dependent is
 - 7 a child and the offense is committed under:
 - 8 (i) ~~IC 35-46-1-4(a)(1)~~; **IC 35-46-1-4(b)(1)**;
 - 9 (ii) ~~IC 35-46-1-4(a)(2)~~; **IC 35-46-1-4(b)(2)**; or
 - 10 (iii) ~~IC 35-46-1-4(a)(3)~~; **IC 35-46-1-4(b)(3)**;
 - 11 (B) child selling (~~IC 35-46-1-4(d)~~; **IC 35-46-1-4(e)**);
 - 12 (C) a sex offense (as defined in IC 11-8-8-5.2) committed
 - 13 against a child; or
 - 14 (D) battery against a child under:
 - 15 (i) IC 35-42-2-1(e)(3) (battery on a child);
 - 16 (ii) IC 35-42-2-1(g)(5)(B) (battery causing bodily injury to
 - 17 a child);



- 1 (iii) IC 35-42-2-1(j) (battery causing serious bodily injury to
 2 a child); or
 3 (iv) IC 35-42-2-1(k) (battery resulting in the death of a
 4 child).
- 5 (2) "Office" refers to the office of judicial administration created
 6 under IC 33-24-6-1.
- 7 (3) "Registry" means the child abuse registry established under
 8 section 2 of this chapter.
- 9 SECTION 2. IC 20-26-5-11.2, AS ADDED BY P.L.110-2023,
 10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2024]: Sec. 11.2. (a) This section applies to:
 12 (1) a school corporation;
 13 (2) a charter school;
 14 (3) a state accredited nonpublic school; and
 15 (4) an entity with which the school corporation, charter school, or
 16 state accredited nonpublic school contracts for services;
 17 concerning employees of the school corporation, charter school, state
 18 accredited nonpublic school, or entity who are likely to have direct,
 19 ongoing contact with children within the scope of the employees'
 20 employment.
- 21 (b) Subject to section 10(k) of this chapter and subsection (f), a
 22 school corporation, charter school, state accredited nonpublic school,
 23 or entity may not employ or contract with, and shall terminate the
 24 employment of or contract with, an individual convicted of any of the
 25 following offenses:
 26 (1) Murder (IC 35-42-1-1).
 27 (2) Causing suicide (IC 35-42-1-2).
 28 (3) Assisting suicide (IC 35-42-1-2.5).
 29 (4) Voluntary manslaughter (IC 35-42-1-3).
 30 (5) Aggravated battery (IC 35-42-2-1.5).
 31 (6) Kidnapping (IC 35-42-3-2).
 32 (7) A sex offense (as defined in IC 11-8-8-5.2).
 33 (8) Carjacking (IC 35-42-5-2) (repealed).
 34 (9) Arson (IC 35-43-1-1).
 35 (10) Public indecency (IC 35-45-4-1(a)(3), IC 35-45-4-1(a)(4),
 36 and IC 35-45-4-1(b)) committed:
 37 (A) after June 30, 2003; or
 38 (B) before July 1, 2003, if the person committed the offense
 39 by, in a public place, engaging in sexual intercourse or other
 40 sexual conduct (as defined in IC 35-31.5-2-221.5).
 41 (11) Neglect of a dependent as a Class B felony (for a crime
 42 committed before July 1, 2014) or a Level 1 felony or Level 3



1 felony (for a crime committed after June 30, 2014) (~~IC~~
 2 ~~35-46-1-4(b)(2)~~ **(IC 35-46-1-4(c)(2)** and ~~IC 35-46-1-4(b)(3)~~;
 3 **IC 35-46-1-4(c)(3)**).

4 (12) Child selling (~~IC 35-46-1-4(d)~~): **(IC 35-46-1-4(e))**.

5 (13) An offense relating to material or a performance that is
 6 harmful to minors or obscene under IC 35-49-3.

7 If an entity described in subsection (a)(4) obtains information that an
 8 individual employed by the entity who works at a particular school
 9 corporation, charter school, or state accredited nonpublic school has
 10 been convicted of an offense described in this subsection, the entity
 11 shall immediately notify the school corporation, charter school, or state
 12 accredited nonpublic school of the employee's conviction.

13 (c) After June 30, 2023, a school corporation, charter school, state
 14 accredited nonpublic school, or entity may employ or contract with an
 15 individual convicted of any of the following offenses if a majority of
 16 the members elected or appointed to the governing body of the school
 17 corporation, or the equivalent body for a charter school, approves the
 18 employment or contract as a separate, special agenda item, or if the
 19 school administrator of a state accredited nonpublic school informs the
 20 administrator's appointing authority of the hiring:

21 (1) An offense relating to operating a motor vehicle while
 22 intoxicated under IC 9-30-5.

23 (2) Reckless homicide (IC 35-42-1-5).

24 (3) Battery (IC 35-42-2-1).

25 (4) Domestic battery (IC 35-42-2-1.3).

26 (5) Criminal confinement (IC 35-42-3-3).

27 (6) Public indecency (IC 35-45-4-1(a)(1) or IC 35-45-4-1(a)(2))
 28 committed:

29 (A) after June 30, 2003; or

30 (B) before July 1, 2003, if the person committed the offense
 31 by, in a public place, engaging in sexual intercourse or other
 32 sexual conduct (as defined in IC 35-31.5-2-221.5).

33 (7) Contributing to the delinquency of a minor (IC 35-46-1-8).

34 (8) An offense involving a weapon under IC 35-47 or IC 35-47.5.

35 (9) An offense relating to controlled substances under IC 35-48-4,
 36 other than an offense involving marijuana or paraphernalia used
 37 to consume marijuana.

38 (d) An individual employed by a school corporation, charter school,
 39 state accredited nonpublic school, or entity described in subsection (a)
 40 shall notify the governing body of the school, if during the course of the
 41 individual's employment, the individual:

42 (1) is convicted in Indiana or another jurisdiction of an offense



- 1 described in subsection (b) or subsection (c); or
 2 (2) is the subject of a substantiated report of child abuse or
 3 neglect.
- 4 (e) A school corporation, charter school, state accredited nonpublic
 5 school, or entity may use information obtained under section 10 of this
 6 chapter concerning an individual being the subject of a substantiated
 7 report of child abuse or neglect as grounds to not employ or contract
 8 with the individual.
- 9 (f) A school corporation, charter school, state accredited nonpublic
 10 school, or entity is not required to consider whether information
 11 concerning an individual's conviction:
- 12 (1) requires the school or entity to:
- 13 (A) not employ; or
 14 (B) not contract with; or
- 15 (2) constitutes grounds to terminate the employment of or contract
 16 with;
- 17 an individual under subsection (b) if the individual's conviction is
 18 reversed, vacated, or set aside.
- 19 (g) Nothing in this section prohibits a school corporation, charter
 20 school, state accredited nonpublic school, or entity from establishing
 21 procedures to verify the accuracy of the information obtained under
 22 section 10 of this chapter concerning an individual's conviction.
- 23 (h) A school corporation, charter school, or state accredited
 24 nonpublic school may not hire or contract with an individual:
- 25 (1) who is required to wear an ankle monitor as the result of a
 26 criminal conviction;
- 27 (2) who entered into an agreement to settle an allegation of
 28 misconduct relating to the health, safety, or well-being of a
 29 student at a school corporation, charter school, or state accredited
 30 nonpublic school, if the agreement included a nondisclosure
 31 agreement covering the alleged misconduct; or
- 32 (3) who, in an academic environment, engaged in a course of
 33 conduct involving repeated or continuing contact with a child that
 34 is intended to prepare or condition the child for sexual activity (as
 35 defined in IC 35-42-4-13);
- 36 unless a majority of the members elected or appointed to the governing
 37 body of the school corporation, or the equivalent body for a charter
 38 school, approves the hire or contract as a separate, special agenda item,
 39 or unless the school administrator of a state accredited nonpublic
 40 school informs the administrator's appointing authority of the hiring.
- 41 (i) For purposes of subsection (h), "misconduct relating to the
 42 health, safety, or well-being of a student" includes:



- 1 (1) engaging in a pattern of flirtatious or otherwise inappropriate
- 2 comments;
- 3 (2) making any effort to gain unreasonable access to, and time
- 4 alone with, any student with no discernable educational purpose;
- 5 (3) engaging in any behavior that can reasonably be construed as
- 6 involving an inappropriate and overly personal and intimate
- 7 relationship with, conduct toward, or focus on a student;
- 8 (4) telling explicit sexual jokes and stories;
- 9 (5) making sexually related comments;
- 10 (6) engaging in sexual kidding or teasing;
- 11 (7) engaging in sexual innuendos or making comments with
- 12 double entendre;
- 13 (8) inappropriate physical touching;
- 14 (9) using spoken, written, or any electronic communication to
- 15 importune, invite, participate with, or entice a person to expose or
- 16 touch the person's own or another person's intimate body parts or
- 17 to observe the student's intimate body parts via any form of
- 18 computer network or system, any social media platform,
- 19 telephone network, or data network or by text message or instant
- 20 messaging;
- 21 (10) sexual advances or requests for sexual favors;
- 22 (11) physical or romantic relationship including but not limited to
- 23 sexual intercourse or oral sexual intercourse;
- 24 (12) discussion of one's personal romantic or sexual feelings or
- 25 activities;
- 26 (13) discussion, outside of a professional teaching or counseling
- 27 context endorsed or required by an employing school district, of
- 28 a student's romantic or sexual feelings or activities;
- 29 (14) displaying, sharing, or transmitting pornographic or sexually
- 30 explicit materials;
- 31 (15) any physical contact that the student previously has indicated
- 32 is unwelcome, unless such contact is professionally required, such
- 33 as to teach a sport or other skill, or to protect the safety of the
- 34 student or others;
- 35 (16) other than for purposes of addressing student dress code
- 36 violations or concerns, referencing the physical appearance or
- 37 clothes of a student in a way that could be interpreted as sexual;
- 38 and
- 39 (17) self-disclosure or physical exposure of a sexual, romantic, or
- 40 erotic nature.

41 SECTION 3. IC 31-9-2-84.8, AS AMENDED BY P.L.142-2020,
42 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2024]; Sec. 84.8. "Nonwaivable offense", for purposes of this
 2 title, means a conviction of any of the following felonies:

- 3 (1) Murder (IC 35-42-1-1).
 4 (2) Causing suicide (IC 35-42-1-2).
 5 (3) Assisting suicide (IC 35-42-1-2.5).
 6 (4) Voluntary manslaughter (IC 35-42-1-3).
 7 (5) Involuntary manslaughter (IC 35-42-1-4).
 8 (6) Reckless homicide (IC 35-42-1-5).
 9 (7) Feticide (IC 35-42-1-6).
 10 (8) Battery (IC 35-42-2-1) within the past five (5) years.
 11 (9) Domestic battery (IC 35-42-2-1.3).
 12 (10) Aggravated battery (IC 35-42-2-1.5).
 13 (11) Criminal recklessness (IC 35-42-2-2) within the past five (5)
 14 years.
 15 (12) Strangulation (IC 35-42-2-9).
 16 (13) Kidnapping (IC 35-42-3-2).
 17 (14) Criminal confinement (IC 35-42-3-3) within the past five (5)
 18 years.
 19 (15) Human and sexual trafficking (IC 35-42-3.5).
 20 (16) A felony sex offense under IC 35-42-4.
 21 (17) Arson (IC 35-43-1-1) within the past five (5) years.
 22 (18) Incest (IC 35-46-1-3).
 23 (19) Neglect of a dependent (~~IC 35-46-1-4(a)~~ **(IC 35-46-1-4(b)**
 24 **and IC 35-46-1-4(c)).**
 25 (20) Child selling (~~IC 35-46-1-4(d)~~; **(IC 35-46-1-4(e)).**
 26 (21) Reckless supervision (IC 35-46-1-4.1).
 27 (22) Nonsupport of a dependent child (IC 35-46-1-5) within the
 28 past five (5) years.
 29 (23) Operating a motorboat while intoxicated (IC 35-46-9-6)
 30 within the past five (5) years.
 31 (24) A felony involving a weapon under IC 35-47 within the past
 32 five (5) years.
 33 (25) A felony relating to controlled substances under IC 35-48-4
 34 within the past five (5) years.
 35 (26) An offense relating to material or a performance that is
 36 harmful to minors or obscene under IC 35-49-3.
 37 (27) A felony under IC 9-30-5 within the past five (5) years.
 38 (28) A felony related to the health or safety of a child (as defined
 39 in IC 31-9-2-13(h)) or an endangered adult (as defined in
 40 IC 12-10-3-2).

41 SECTION 4. IC 31-34-12-9, AS ADDED BY P.L.244-2023,
 42 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2024]: Sec. 9. If:

2 (1) a child is the subject of a petition alleging that the child is a
3 child in need of services; and

4 (2) a parent of the child has been convicted of committing:

5 (A) aggravated battery (IC 35-42-2-1.5);

6 (B) strangulation (IC 35-42-2-9); or

7 (C) neglect of a dependent under ~~IC 35-46-1-4(b)(2)~~

8 **IC 35-46-1-4(c)(2)** or ~~IC 35-46-1-4(b)(3)~~; **IC 35-46-1-4(c)(3)**;

9 against the child;

10 there is a rebuttable presumption that it is in the child's best interests
11 to prohibit the parent from having in person contact with the child until
12 a dispositional decree is entered or the petition is dismissed.

13 SECTION 5. IC 35-46-1-4, AS AMENDED BY P.L.170-2021,
14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2024]: Sec. 4. **(a) A person having the care of a dependent
16 child who is less than ten (10) years of age, whether assumed
17 voluntarily or because of a legal obligation, who knowingly or
18 intentionally leaves the child unattended for an unreasonable
19 amount of time commits neglect of a dependent, a Class A
20 misdemeanor.**

21 ~~(a)~~ **(b)** A person having the care of a dependent, whether assumed
22 voluntarily or because of a legal obligation, who knowingly or
23 intentionally:

24 (1) places the dependent in a situation that endangers the
25 dependent's life or health;

26 (2) abandons or cruelly confines the dependent;

27 (3) deprives the dependent of necessary support; or

28 (4) deprives the dependent of education as required by law;

29 commits neglect of a dependent, a Level 6 felony.

30 ~~(b)~~ **(c)** However, the offense is:

31 (1) a Level 5 felony if it is committed under subsection ~~(a)(1)~~;
32 ~~(a)(2)~~, or ~~(a)(3)~~ **(b)(1), (b)(2), or (b)(3)** and:

33 (A) results in bodily injury; or

34 (B) is:

35 (i) committed in a location where a person is violating
36 IC 35-48-4-1 (dealing in cocaine or a narcotic drug),
37 IC 35-48-4-1.1 (dealing in methamphetamine), or
38 IC 35-48-4-1.2 (manufacturing methamphetamine); or

39 (ii) the result of a violation of IC 35-48-4-1 (dealing in
40 cocaine or a narcotic drug), IC 35-48-4-1.1 (dealing in
41 methamphetamine), or IC 35-48-4-1.2 (manufacturing
42 methamphetamine);



- 1 (2) a Level 3 felony if it is committed under subsection ~~(a)(1);~~
 2 ~~(a)(2); or (a)(3)~~ **(b)(1), (b)(2), or (b)(3)** and results in serious
 3 bodily injury;
- 4 (3) a Level 1 felony if it is committed under subsection ~~(a)(1);~~
 5 ~~(a)(2); or (a)(3)~~ **(b)(1), (b)(2), or (b)(3)** by a person at least
 6 eighteen (18) years of age and results in the death or catastrophic
 7 injury of a dependent who is less than fourteen (14) years of age
 8 or in the death or catastrophic injury of a dependent of any age
 9 who has a mental or physical disability; and
- 10 (4) a Level 5 felony if it is committed under subsection ~~(a)(2)~~
 11 **(b)(2)** and consists of cruel confinement or abandonment that:
- 12 (A) deprives a dependent of necessary food, water, or sanitary
 13 facilities;
- 14 (B) consists of confinement in an area not intended for human
 15 habitation; or
- 16 (C) involves the unlawful use of handcuffs, a rope, a cord,
 17 tape, or a similar device to physically restrain a dependent.
- 18 ~~(e)~~ **(d)** It is a defense to a prosecution based on an alleged act under
 19 this section that:
- 20 (1) the accused person left a dependent child who was, at the time
 21 the alleged act occurred, not more than thirty (30) days of age:
- 22 (A) in a newborn safety device described in
 23 IC 31-34-2.5-1(a)(2), IC 31-34-2.5-1(a)(3),
 24 IC 31-34-2.5-1(a)(4), or IC 31-34-2.5-1(a)(5); or
- 25 (B) with a person who is an emergency medical services
 26 provider (as defined in IC 16-41-10-1) who took custody of the
 27 child under IC 31-34-2.5;
- 28 when the prosecution is based solely on the alleged act of leaving
 29 the child in the newborn safety device or with the emergency
 30 medical services provider and the alleged act did not result in
 31 bodily injury or serious bodily injury to the child; ~~or~~
- 32 (2) the accused person, in the legitimate practice of the accused
 33 person's religious belief, provided treatment by spiritual means
 34 through prayer, in lieu of medical care, to the accused person's
 35 dependent; ~~or~~
- 36 **(3) the child described in subsection (a) was being supervised**
 37 **by an individual at least thirteen (13) years of age at the time**
 38 **the alleged act occurred.**
- 39 ~~(d)~~ **(e)** Except for property transferred or received:
- 40 (1) under a court order made in connection with a proceeding
 41 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
 42 or IC 31-6-5 before their repeal); or



1 (2) under section 9(d) of this chapter;
2 a person who transfers or receives any property in consideration for the
3 termination of the care, custody, or control of a person's dependent
4 child commits child selling, a Level 6 felony.

