

SENATE BILL No. 251

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-8-8; IC 11-10-11.5-11; IC 11-13-3-4; IC 31-27-4-35; IC 31-34; IC 31-35-3-4; IC 35-38-2; IC 35-42-4; IC 35-44.1-3-9; IC 35-50-2-14.

Synopsis: Age of consent. Adds the criminal offense of indiscretion, which is committed when a person who is at least 22 years of age engages in sexual intercourse or other sexual conduct, fondling, or touching with a child who is at least 16 years of age but less than 18 years of age. Adds indiscretion to the list of: (1) sex offenses; and (2) offenses that would determine if a child is a child in need of services. Makes conforming amendments.

Effective: July 1, 2018.

Mrvan

January 3, 2018, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session 120th General Assembly (2018)

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.

SENATE BILL No. 251

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 11-8-8-4.5, AS AMENDED BY P.L.13-2016,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 4.5. (a) Except as provided in section 22 of this
4 chapter, as used in this chapter, "sex offender" means a person
5 convicted of any of the following offenses:
6 (1) Rape (IC 35-42-4-1).
7 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
8 (3) Child molesting (IC 35-42-4-3).
9 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
10 (5) Vicarious sexual gratification (including performing sexual
11 conduct in the presence of a minor) (IC 35-42-4-5).
12 (6) Child solicitation (IC 35-42-4-6).
13 (7) Child seduction (IC 35-42-4-7).
14 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
15 Class B, or Class C felony (for a crime committed before July 1,
16 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
17 crime committed after June 30, 2014), unless:



- 1 (A) the person is convicted of sexual misconduct with a minor
 2 as a Class C felony (for a crime committed before July 1,
 3 2014) or a Level 5 felony (for a crime committed after June
 4 30, 2014);
 5 (B) the person is not more than:
 6 (i) four (4) years older than the victim if the offense was
 7 committed after June 30, 2007; or
 8 (ii) five (5) years older than the victim if the offense was
 9 committed before July 1, 2007; and
 10 (C) the sentencing court finds that the person should not be
 11 required to register as a sex offender.
 12 (9) Incest (IC 35-46-1-3).
 13 (10) Sexual battery (IC 35-42-4-8).
 14 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 15 (18) years of age, and the person who kidnapped the victim is not
 16 the victim's parent or guardian.
 17 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 18 than eighteen (18) years of age, and the person who confined or
 19 removed the victim is not the victim's parent or guardian.
 20 (13) Possession of child pornography (IC 35-42-4-4(d) or
 21 IC 35-42-4-4(e)).
 22 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
 23 (for a crime committed before July 1, 2014) or a Level 4 felony
 24 (for a crime committed after June 30, 2014).
 25 (15) Promotion of human trafficking under IC 35-42-3.5-1(a)(2).
 26 (16) Promotion of human trafficking of a minor under
 27 IC 35-42-3.5-1(b)(1)(B) or IC 35-42-3.5-1(b)(2).
 28 (17) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
 29 (18) Human trafficking under IC 35-42-3.5-1(d)(3) if the victim
 30 is less than eighteen (18) years of age.
 31 (19) Sexual misconduct by a service provider with a detained or
 32 supervised child (IC 35-44.1-3-10(c)).
 33 **(20) Indiscretion (IC 35-42-4-9.5).**
 34 ~~(20)~~ **(21)** An attempt or conspiracy to commit a crime listed in
 35 this subsection.
 36 ~~(21)~~ **(22)** A crime under the laws of another jurisdiction,
 37 including a military court, that is substantially equivalent to any
 38 of the offenses listed in this subsection.
 39 (b) The term includes:
 40 (1) a person who is required to register as a sex offender in any
 41 jurisdiction; and
 42 (2) a child who has committed a delinquent act and who:



1 (A) is at least fourteen (14) years of age;
 2 (B) is on probation, is on parole, is discharged from a facility
 3 by the department of correction, is discharged from a secure
 4 private facility (as defined in IC 31-9-2-115), or is discharged
 5 from a juvenile detention facility as a result of an adjudication
 6 as a delinquent child for an act that would be an offense
 7 described in subsection (a) if committed by an adult; and
 8 (C) is found by a court by clear and convincing evidence to be
 9 likely to repeat an act that would be an offense described in
 10 subsection (a) if committed by an adult.

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

15 SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.13-2016,
 16 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2018]: Sec. 5. (a) Except as provided in section 22 of this
 18 chapter, as used in this chapter, "sex or violent offender" means a
 19 person convicted of any of the following offenses:

- 20 (1) Rape (IC 35-42-4-1).
 21 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 22 (3) Child molesting (IC 35-42-4-3).
 23 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
 24 (5) Vicarious sexual gratification (including performing sexual
 25 conduct in the presence of a minor) (IC 35-42-4-5).
 26 (6) Child solicitation (IC 35-42-4-6).
 27 (7) Child seduction (IC 35-42-4-7).
 28 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
 29 Class B, or Class C felony (for a crime committed before July 1,
 30 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
 31 crime committed after June 30, 2014), unless:
 32 (A) the person is convicted of sexual misconduct with a minor
 33 as a Class C felony (for a crime committed before July 1,
 34 2014) or a Level 5 felony (for a crime committed after June
 35 30, 2014);
 36 (B) the person is not more than:
 37 (i) four (4) years older than the victim if the offense was
 38 committed after June 30, 2007; or
 39 (ii) five (5) years older than the victim if the offense was
 40 committed before July 1, 2007; and
 41 (C) the sentencing court finds that the person should not be
 42 required to register as a sex offender.



- 1 (9) Incest (IC 35-46-1-3).
 2 (10) Sexual battery (IC 35-42-4-8).
 3 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 4 (18) years of age, and the person who kidnapped the victim is not
 5 the victim's parent or guardian.
 6 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 7 than eighteen (18) years of age, and the person who confined or
 8 removed the victim is not the victim's parent or guardian.
 9 (13) Possession of child pornography (IC 35-42-4-4(d) or
 10 IC 35-42-4-4(e)).
 11 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
 12 (for a crime committed before July 1, 2014) or a Level 4 felony
 13 (for a crime committed after June 30, 2014).
 14 (15) Promotion of human trafficking under IC 35-42-3.5-1(a)(2).
 15 (16) Promotion of human trafficking of a minor under
 16 IC 35-42-3.5-1(b)(1)(B) or IC 35-42-3.5-1(b)(2).
 17 (17) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
 18 (18) Human trafficking under IC 35-42-3.5-1(d)(3) if the victim
 19 is less than eighteen (18) years of age.
 20 (19) Murder (IC 35-42-1-1).
 21 (20) Voluntary manslaughter (IC 35-42-1-3).
 22 (21) Sexual misconduct by a service provider with a detained or
 23 supervised child (IC 35-44.1-3-10(c)).
 24 **(22) Indiscretion (IC 35-42-4-9.5).**
 25 ~~(22)~~ **(23)** An attempt or conspiracy to commit a crime listed in
 26 this subsection.
 27 ~~(23)~~ **(24)** A crime under the laws of another jurisdiction,
 28 including a military court, that is substantially equivalent to any
 29 of the offenses listed in this subsection.
 30 (b) The term includes:
 31 (1) a person who is required to register as a sex or violent
 32 offender in any jurisdiction; and
 33 (2) a child who has committed a delinquent act and who:
 34 (A) is at least fourteen (14) years of age;
 35 (B) is on probation, is on parole, is discharged from a facility
 36 by the department of correction, is discharged from a secure
 37 private facility (as defined in IC 31-9-2-115), or is discharged
 38 from a juvenile detention facility as a result of an adjudication
 39 as a delinquent child for an act that would be an offense
 40 described in subsection (a) if committed by an adult; and
 41 (C) is found by a court by clear and convincing evidence to be
 42 likely to repeat an act that would be an offense described in



1 subsection (a) if committed by an adult.

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

6 SECTION 3. IC 11-10-11.5-11, AS AMENDED BY P.L.209-2015,
7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2018]: Sec. 11. (a) While assigned to a community transition
9 program, a person must comply with:

10 (1) the rules concerning the conduct of persons in the community
11 transition program, including rules related to payments described
12 in section 12 of this chapter, that are adopted by the community
13 corrections advisory board establishing the program or, in
14 counties that are not served by a community corrections program,
15 that are jointly adopted by the courts in the county with felony
16 jurisdiction; and

17 (2) any conditions established by the sentencing court for the
18 person.

19 (b) As a rule of the community transition program, a person
20 convicted of a sex offense (as defined in IC 11-8-8-5.2) may not use a
21 social networking web site (as defined in IC 35-31.5-2-307) or an
22 instant messaging or chat room program (as defined in
23 IC 35-31.5-2-173) to communicate, directly or through an intermediary,
24 with a child less than ~~sixteen (16)~~ **eighteen (18)** years of age. However,
25 the rules of the community transition program may permit the offender
26 to communicate using a social networking web site or an instant
27 messaging or chat room program with:

28 (1) the offender's own child, stepchild, or sibling; or

29 (2) another relative of the offender specifically named in the rules
30 applicable to that person.

31 (c) As a rule of the community transition program, an individual
32 may be required to receive:

33 (1) addiction counseling;

34 (2) inpatient detoxification;

35 (3) case management;

36 (4) daily living skills; and

37 (5) medication assisted treatment, including a federal Food and
38 Drug Administration approved long acting, nonaddictive
39 medication for the treatment of opioid or alcohol dependence.

40 SECTION 4. IC 11-13-3-4, AS AMENDED BY P.L.95-2017,
41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2018]: Sec. 4. (a) A condition to remaining on parole is that



1 the parolee not commit a crime during the period of parole.

2 (b) The parole board may also adopt, under IC 4-22-2, additional
3 conditions to remaining on parole and require a parolee to satisfy one
4 (1) or more of these conditions. These conditions must be reasonably
5 related to the parolee's successful reintegration into the community and
6 not unduly restrictive of a fundamental right.

7 (c) If a person is released on parole, the parolee shall be given a
8 written statement of the conditions of parole. Signed copies of this
9 statement shall be:

10 (1) retained by the parolee;

11 (2) forwarded to any person charged with the parolee's
12 supervision; and

13 (3) placed in the parolee's master file.

14 (d) The parole board may modify parole conditions if the parolee
15 receives notice of that action and had ten (10) days after receipt of the
16 notice to express the parolee's views on the proposed modification.
17 This subsection does not apply to modification of parole conditions
18 after a revocation proceeding under section 10 of this chapter.

19 (e) As a condition of parole, the parole board may require the
20 parolee to reside in a particular parole area. In determining a parolee's
21 residence requirement, the parole board shall:

22 (1) consider:

23 (A) the residence of the parolee prior to the parolee's
24 incarceration; and

25 (B) the parolee's place of employment; and

26 (2) assign the parolee to reside in the county where the parolee
27 resided prior to the parolee's incarceration unless assignment on
28 this basis would be detrimental to the parolee's successful
29 reintegration into the community.

30 (f) As a condition of parole, the parole board may require the
31 parolee to:

32 (1) periodically undergo a laboratory chemical test (as defined in
33 IC 9-13-2-22) or series of tests to detect and confirm the presence
34 of a controlled substance (as defined in IC 35-48-1-9); and

35 (2) have the results of any test under this subsection reported to
36 the parole board by the laboratory.

37 The parolee is responsible for any charges resulting from a test
38 required under this subsection. However, a person's parole may not be
39 revoked on the basis of the person's inability to pay for a test under this
40 subsection.

41 (g) As a condition of parole, the parole board:

42 (1) may require a parolee who is a sex offender (as defined in



- 1 IC 11-8-8-4.5) to:
- 2 (A) participate in a treatment program for sex offenders
- 3 approved by the parole board; and
- 4 (B) avoid contact with any person who is less than ~~sixteen (16)~~
- 5 **eighteen (18)** years of age unless the parolee:
- 6 (i) receives the parole board's approval; or
- 7 (ii) successfully completes the treatment program referred to
- 8 in clause (A); and
- 9 (2) shall:
- 10 (A) require a parolee who is a sex or violent offender (as
- 11 defined in IC 11-8-8-5) to register with a local law
- 12 enforcement authority under IC 11-8-8;
- 13 (B) prohibit a parolee who is a sex offender from residing
- 14 within one thousand (1,000) feet of school property (as defined
- 15 in IC 35-31.5-2-285) for the period of parole, unless the sex
- 16 offender obtains written approval from the parole board;
- 17 (C) prohibit a parolee who is a sex offender convicted of a sex
- 18 offense (as defined in IC 35-38-2-2.5) from residing within
- 19 one (1) mile of the victim of the sex offender's sex offense
- 20 unless the sex offender obtains a waiver under IC 35-38-2-2.5;
- 21 (D) prohibit a parolee who is a sex offender from owning,
- 22 operating, managing, being employed by, or volunteering at
- 23 any attraction designed to be primarily enjoyed by children
- 24 less than ~~sixteen (16)~~ **eighteen (18)** years of age;
- 25 (E) require a parolee who is a sex offender to consent:
- 26 (i) to the search of the sex offender's personal computer at
- 27 any time; and
- 28 (ii) to the installation on the sex offender's personal
- 29 computer or device with Internet capability, at the sex
- 30 offender's expense, of one (1) or more hardware or software
- 31 systems to monitor Internet usage; and
- 32 (F) prohibit the sex offender from:
- 33 (i) accessing or using certain web sites, chat rooms, or
- 34 instant messaging programs frequented by children; and
- 35 (ii) deleting, erasing, or tampering with information on the
- 36 sex offender's personal computer with intent to conceal an
- 37 activity prohibited by item (i).
- 38 The parole board may not grant a sexually violent predator (as defined
- 39 in IC 35-38-1-7.5) or a sex offender who is an offender against children
- 40 under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the
- 41 parole board allows the sex offender to reside within one thousand
- 42 (1,000) feet of school property under subdivision (2)(B), the parole



1 board shall notify each school within one thousand (1,000) feet of the
2 sex offender's residence of the order.

3 (h) The address of the victim of a parolee who is a sex offender
4 convicted of a sex offense (as defined in IC 35-38-2-2.5) is
5 confidential, even if the sex offender obtains a waiver under
6 IC 35-38-2-2.5.

7 (i) As a condition of parole, the parole board may require a parolee
8 to participate in a reentry court program.

9 (j) As a condition of parole, the parole board shall require a parolee
10 who is a sexually violent predator under IC 35-38-1-7.5 or who is a sex
11 or violent offender (as defined in IC 11-8-8-5) to wear a monitoring
12 device (as described in IC 35-38-2.5-3) that can transmit information
13 twenty-four (24) hours each day regarding a person's precise location,
14 subject to a validated sex offender risk assessment, and subject to the
15 amount appropriated to the department for a monitoring program as a
16 condition of parole.

17 (k) As a condition of parole, the parole board may prohibit, in
18 accordance with IC 35-38-2-2.6, a parolee who has been convicted of
19 stalking from residing within one thousand (1,000) feet of the residence
20 of the victim of the stalking for a period that does not exceed five (5)
21 years.

22 (l) As a condition of parole, the parole board may prohibit a parolee
23 convicted of an offense under IC 35-46-3 from owning, harboring, or
24 training an animal, and, if the parole board prohibits a parolee
25 convicted of an offense under IC 35-46-3 from having direct or indirect
26 contact with an individual, the parole board may also prohibit the
27 parolee from having direct or indirect contact with any animal
28 belonging to the individual.

29 (m) As a condition of parole, the parole board may require a parolee
30 to receive:

- 31 (1) addiction counseling;
32 (2) inpatient detoxification;
33 (3) case management;
34 (4) daily living skills; and
35 (5) medication assisted treatment, including a federal Food and
36 Drug Administration approved long acting, nonaddictive
37 medication for the treatment of opioid or alcohol dependence.

38 (n) A parolee may be responsible for the reasonable expenses, as
39 determined by the department, of the parolee's participation in a
40 treatment or other program required as a condition of parole under this
41 section. However, a person's parole may not be revoked solely on the
42 basis of the person's inability to pay for a program required as a



1 condition of parole under this section.

2 (o) When an offender is placed on lifetime parole, the parole board
3 shall inform the sheriff and the prosecuting attorney of the county in
4 which the offender committed the offense:

5 (1) that the offender has been placed on lifetime parole; and

6 (2) whether the offender is required to wear a monitoring device
7 as described in subsection (j).

8 SECTION 5. IC 31-27-4-35, AS ADDED BY P.L.145-2006,
9 SECTION 273, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2018]: Sec. 35. (a) A licensee must immediately
11 contact the department if:

12 (1) a foster child less than ~~sixteen (16)~~ **eighteen (18)** years of age,
13 while living in a foster home, engages in or is the victim of sexual
14 contact (as defined in IC 25-1-9-3.5);

15 (2) a foster child, while living in a foster home, is:

16 (A) charged with or adjudicated as having committed an act
17 that would be a crime under IC 35-42-4 if committed by an
18 adult;

19 (B) charged with or convicted of an offense under IC 35-42-4;
20 or

21 (C) the victim of an offense under IC 35-42-4; or

22 (3) the licensee learns that a foster child has, before placement
23 with the licensee, engaged in or been the victim of an act
24 described in subdivision (1) or (2).

25 (b) The information provided to the department under subsection (a)
26 must include:

27 (1) the name of the child;

28 (2) the date of the occurrence of the act if it can be determined;

29 (3) a description of the act;

30 (4) the name of the responding law enforcement agency if a law
31 enforcement agency is contacted; and

32 (5) any other information the licensee determines is relevant.

33 (c) Notwithstanding any other law, the department shall provide
34 information described in subsection (b)(1) through (b)(4), whether
35 received from a licensee or another reliable source, to:

36 (1) a prospective licensee before the placement of the foster child
37 with that licensee; and

38 (2) each licensee with whom the foster child has previously been
39 placed.

40 (d) The notification requirements of subsection (c) apply to a foster
41 child who has:

42 (1) engaged in sexual contact (as defined in IC 25-1-9-3.5) if the



1 foster child is less than ~~sixteen (16)~~ **eighteen (18)** years of age;
 2 (2) been charged with or adjudicated as having committed an act
 3 that would be a crime under IC 35-42-4 if committed by an adult;
 4 or
 5 (3) been charged with or convicted of an offense under
 6 IC 35-42-4.

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

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

12 (A) IC 35-42-4-1;

13 (B) IC 35-42-4-2 (before its repeal);

14 (C) IC 35-42-4-3;

15 (D) IC 35-42-4-4;

16 (E) IC 35-42-4-5;

17 (F) IC 35-42-4-6;

18 (G) IC 35-42-4-7;

19 (H) IC 35-42-4-8;

20 (I) IC 35-42-4-9;

21 **(J) IC 35-42-4-9.5;**

22 ~~(K)~~ **(K)** IC 35-45-4-1;

23 ~~(L)~~ **(L)** IC 35-45-4-2;

24 ~~(M)~~ **(M)** IC 35-45-4-3;

25 ~~(N)~~ **(N)** IC 35-45-4-4;

26 ~~(O)~~ **(O)** IC 35-46-1-3; or

27 ~~(P)~~ **(P)** the law of another jurisdiction, including a military
 28 court, that is substantially equivalent to any of the offenses
 29 listed in clauses (A) through ~~(N)~~; **(O)**; and

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

31 (A) the child is not receiving; and

32 (B) is unlikely to be provided or accepted without the coercive
 33 intervention of the court.

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

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

37 (A) committed an offense described in subsection (a)(1)
 38 against a child and the offense resulted in a conviction or a
 39 judgment under IC 31-34-11-2; or

40 (B) has been charged with an offense described in subsection
 41 (a)(1) against a child and is awaiting trial; and

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



- 1 (A) the child is not receiving; and
- 2 (B) is unlikely to be provided or accepted without the coercive
- 3 intervention of the court.
- 4 (c) A child is a child in need of services if, before the child becomes
- 5 eighteen (18) years of age:
- 6 (1) the child lives in the same household as another child who is
- 7 the victim of an offense described in subsection (a)(1);
- 8 (2) the child needs care, treatment, or rehabilitation that:
- 9 (A) the child is not receiving; and
- 10 (B) is unlikely to be provided or accepted without the coercive
- 11 intervention of the court; and
- 12 (3) a caseworker assigned to provide services to the child:
- 13 (A) places the child in a program of informal adjustment or
- 14 other family or rehabilitative services based on the existence
- 15 of the circumstances described in subdivisions (1) and (2), and
- 16 the caseworker subsequently determines further intervention
- 17 is necessary; or
- 18 (B) determines that a program of informal adjustment or other
- 19 family or rehabilitative services is inappropriate.
- 20 (d) A child is a child in need of services if, before the child becomes
- 21 eighteen (18) years of age:
- 22 (1) the child lives in the same household as an adult who:
- 23 (A) committed a human or sexual trafficking offense under
- 24 IC 35-42-3.5-1 or the law of another jurisdiction, including
- 25 federal law, that resulted in a conviction or a judgment under
- 26 IC 31-34-11-2; or
- 27 (B) has been charged with a human or sexual trafficking
- 28 offense under IC 35-42-3.5-1 or the law of another
- 29 jurisdiction, including federal law, and is awaiting trial; and
- 30 (2) the child needs care, treatment, or rehabilitation that:
- 31 (A) the child is not receiving; and
- 32 (B) is unlikely to be provided or accepted without the coercive
- 33 intervention of the court.
- 34 SECTION 7. IC 31-34-21-5.6, AS AMENDED BY P.L.46-2016,
- 35 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JULY 1, 2018]: Sec. 5.6. Except as provided in subsection (c), a court
- 37 may make a finding described in this section at any phase of a child in
- 38 need of services proceeding.
- 39 (b) Reasonable efforts to reunify a child with the child's parent,
- 40 guardian, or custodian or preserve a child's family as described in
- 41 section 5.5 of this chapter are not required if the court finds any of the
- 42 following:



- 1 (1) A parent, guardian, or custodian of a child who is a child in
 2 need of services has been convicted of:
 3 (A) an offense described in IC 31-35-3-4(1)(B) or
 4 IC 31-35-3-4(1)(D) through ~~IC 31-35-3-4(1)(J)~~
 5 **IC 31-35-3-4(1)(K)** against a victim who is:
 6 (i) a child described in IC 31-35-3-4(2); or
 7 (ii) a parent of the child; or
 8 (B) a comparable offense as described in clause (A) in any
 9 other state, territory, or country by a court of competent
 10 jurisdiction.
 11 (2) A parent, guardian, or custodian of a child who is a child in
 12 need of services:
 13 (A) has been convicted of:
 14 (i) the murder (IC 35-42-1-1) or voluntary manslaughter
 15 (IC 35-42-1-3) of a victim who is a child described in
 16 IC 31-35-3-4(2)(B) or a parent of the child; or
 17 (ii) a comparable offense described in item (i) in any other
 18 state, territory, or country; or
 19 (B) has been convicted of:
 20 (i) aiding, inducing, or causing another person;
 21 (ii) attempting; or
 22 (iii) conspiring with another person;
 23 to commit an offense described in clause (A).
 24 (3) A parent, guardian, or custodian of a child who is a child in
 25 need of services has been convicted of:
 26 (A) battery as a Class A felony (for a crime committed before
 27 July 1, 2014) or Level 2 felony (for a crime committed after
 28 June 30, 2014);
 29 (B) battery as a Class B felony (for a crime committed before
 30 July 1, 2014) or Level 3 or Level 4 felony (for a crime
 31 committed after June 30, 2014);
 32 (C) battery as a Class C felony (for a crime committed before
 33 July 1, 2014) or Level 5 felony (for a crime committed after
 34 June 30, 2014);
 35 (D) aggravated battery (IC 35-42-2-1.5);
 36 (E) criminal recklessness (IC 35-42-2-2) as a Class C felony
 37 (for a crime committed before July 1, 2014) or a Level 5
 38 felony (for a crime committed after June 30, 2014);
 39 (F) neglect of a dependent (IC 35-46-1-4) as a Class B felony
 40 (for a crime committed before July 1, 2014) or a Level 1 or
 41 Level 3 felony (for a crime committed after June 30, 2014);
 42 (G) promotion of human trafficking, promotion of human



- 1 trafficking of a minor, sexual trafficking of a minor, or human
 2 trafficking (IC 35-42-3.5-1) as a felony; or
 3 (H) a comparable offense described in clauses (A) through (G)
 4 under federal law or in another state, territory, or country;
 5 against a child described in IC 31-35-3-4(2)(B).
 6 (4) The parental rights of a parent with respect to a biological or
 7 adoptive sibling of a child who is a child in need of services have
 8 been involuntarily terminated by a court under:
 9 (A) IC 31-35-2 (involuntary termination involving a
 10 delinquent child or a child in need of services);
 11 (B) IC 31-35-3 (involuntary termination involving a
 12 individual convicted of a criminal offense); or
 13 (C) any comparable law described in clause (A) or (B) in any
 14 other state, territory, or country.
 15 (5) The child is an abandoned infant, provided that the court:
 16 (A) has appointed a guardian ad litem or court appointed
 17 special advocate for the child; and
 18 (B) after receiving a written report and recommendation from
 19 the guardian ad litem or court appointed special advocate, and
 20 after a hearing, finds that reasonable efforts to locate the
 21 child's parents or reunify the child's family would not be in the
 22 best interests of the child.
 23 (c) During or at any time after the first periodic case review under
 24 IC 31-34-21-2 of a child in need of services proceeding, if the court
 25 finds that a parent, guardian, or custodian of the child has been charged
 26 with an offense described in subsection (b)(3) and is awaiting trial, the
 27 court may make a finding that reasonable efforts to reunify the child
 28 with the child's parent, guardian, or custodian or preserve the child's
 29 family as described in section 5.5 of this chapter may be suspended
 30 pending the disposition of the parent's, guardian's, or custodian's
 31 criminal charge.
 32 SECTION 8. IC 31-35-3-4, AS AMENDED BY P.L.214-2013,
 33 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2018]: Sec. 4. If:
 35 (1) an individual is convicted of the offense of:
 36 (A) murder (IC 35-42-1-1);
 37 (B) causing suicide (IC 35-42-1-2);
 38 (C) voluntary manslaughter (IC 35-42-1-3);
 39 (D) involuntary manslaughter (IC 35-42-1-4);
 40 (E) rape (IC 35-42-4-1);
 41 (F) criminal deviate conduct (IC 35-42-4-2) (repealed);
 42 (G) child molesting (IC 35-42-4-3);



- 1 (H) child exploitation (IC 35-42-4-4);
 2 (I) sexual misconduct with a minor (IC 35-42-4-9); ~~or~~
 3 **(J) indiscretion (IC 35-42-4-9.5); or**
 4 ~~(K) incest (IC 35-46-1-3); and~~
 5 (2) the victim of the offense:
 6 (A) was less than:
 7 (i) sixteen (16) years of age at the time of the offense **for an**
 8 **offense described in subdivision (1)(A) through (1)(I) or**
 9 **subdivision (1)(K); and or**
 10 **(ii) eighteen (18) years of age at the time of the offense**
 11 **for an offense described in subdivision (1)(J); and**
 12 (B) is:
 13 (i) the individual's biological or adoptive child; or
 14 (ii) the child of a spouse of the individual who has
 15 committed the offense;

16 the attorney for the department, the child's guardian ad litem, or the
 17 court appointed special advocate may file a petition with the juvenile
 18 or probate court to terminate the parent-child relationship of the
 19 individual who has committed the offense with the victim of the
 20 offense, the victim's siblings, or any biological or adoptive child of that
 21 individual.

22 SECTION 9. IC 35-38-2-2.4, AS AMENDED BY P.L.1-2010,
 23 SECTION 142, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2018]: Sec. 2.4. As a condition of probation, the
 25 court may require a sex offender (as defined in IC 11-8-8-4.5) to:

- 26 (1) participate in a treatment program for sex offenders approved
 27 by the court; and
 28 (2) avoid contact with any person who is less than ~~sixteen (16)~~
 29 **eighteen (18)** years of age unless the probationer:
 30 (A) receives the court's approval; or
 31 (B) successfully completes the treatment program referred to
 32 in subdivision (1).

33 SECTION 10. IC 35-38-2-2.5, AS AMENDED BY P.L.13-2016,
 34 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2018]: Sec. 2.5. (a) As used in this section, "offender" means
 36 an individual convicted of a sex offense.

- 37 (b) As used in this section, "sex offense" means any of the
 38 following:
 39 (1) Rape (IC 35-42-4-1).
 40 (2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
 41 (3) Child molesting (IC 35-42-4-3).
 42 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).



- 1 (5) Vicarious sexual gratification (IC 35-42-4-5).
 2 (6) Child solicitation (IC 35-42-4-6).
 3 (7) Child seduction (IC 35-42-4-7).
 4 (8) Sexual battery (IC 35-42-4-8).
 5 (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
 6 **(10) Indiscretion (IC 35-42-4-9.5).**
 7 ~~(10)~~ **(11) Incest (IC 35-46-1-3).**
 8 (c) A condition of remaining on probation or parole after conviction
 9 for a sex offense is that the offender not reside within one (1) mile of
 10 the residence of the victim of the offender's sex offense.
 11 (d) An offender:
 12 (1) who will be placed on probation shall provide the sentencing
 13 court and the probation department with the address where the
 14 offender intends to reside during the period of probation:
 15 (A) at the time of sentencing if the offender will be placed on
 16 probation without first being incarcerated; or
 17 (B) before the offender's release from incarceration if the
 18 offender will be placed on probation after completing a term
 19 of incarceration; or
 20 (2) who will be placed on parole shall provide the parole board
 21 with the address where the offender intends to reside during the
 22 period of parole.
 23 (e) An offender, while on probation or parole, may not establish a
 24 new residence within one (1) mile of the residence of the victim of the
 25 offender's sex offense unless the offender first obtains a waiver from
 26 the:
 27 (1) court, if the offender is placed on probation; or
 28 (2) parole board, if the offender is placed on parole;
 29 for the change of address under subsection (f).
 30 (f) The court or parole board may waive the requirement set forth in
 31 subsection (c) only if the court or parole board, at a hearing at which
 32 the offender is present and of which the prosecuting attorney has been
 33 notified, determines that:
 34 (1) the offender has successfully completed a sex offender
 35 treatment program during the period of probation or parole;
 36 (2) the offender is in compliance with all terms of the offender's
 37 probation or parole; and
 38 (3) good cause exists to allow the offender to reside within one (1)
 39 mile of the residence of the victim of the offender's sex offense.
 40 However, the court or parole board may not grant a waiver under this
 41 subsection if the offender is a sexually violent predator under
 42 IC 35-38-1-7.5 or if the offender is an offender against children under



1 IC 35-42-4-11.

2 (g) If the court or parole board grants a waiver under subsection (f),
3 the court or parole board shall state in writing the reasons for granting
4 the waiver. The court's written statement of its reasons shall be
5 incorporated into the record.

6 (h) The address of the victim of the offender's sex offense is
7 confidential even if the court or parole board grants a waiver under
8 subsection (f).

9 SECTION 11. IC 35-38-2-2.7, AS ADDED BY P.L.247-2013,
10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2018]: Sec. 2.7. As a condition of probation or parole after
12 conviction for a sex offense (as defined in IC 11-8-8-5.2), the court
13 shall prohibit the convicted person from using a social networking web
14 site or an instant messaging or chat room program to communicate,
15 directly or through an intermediary, with a child less than ~~sixteen (16)~~
16 **eighteen (18)** years of age. However, the court may permit the offender
17 to communicate using a social networking web site or an instant
18 messaging or chat room program with:

- 19 (1) the offender's own child, stepchild, or sibling; or
20 (2) another relative of the offender specifically named in the
21 court's order.

22 SECTION 12. IC 35-42-4-9.5 IS ADDED TO THE INDIANA
23 CODE AS A NEW SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2018]: Sec. 9.5. (a) **A person at least
25 twenty-two (22) years of age who, with a child at least sixteen (16)
26 years of age but less than eighteen (18) years of age, performs or
27 submits to sexual intercourse or other sexual conduct (as defined
28 in IC 35-31.5-2-221.5) commits indiscretion, a Level 5 felony.**

29 (b) **A person at least twenty-two (22) years of age who, with a
30 child at least sixteen (16) years of age but less than eighteen (18)
31 years of age, performs or submits to any fondling or touching of
32 either the child or the older person, with intent to arouse or to
33 satisfy the sexual desires of either the child or the older person,
34 commits indiscretion, a Level 6 felony.**

35 (c) **It is a defense that the accused person reasonably believed
36 that the child was at least eighteen (18) years of age at the time of
37 the conduct.**

38 (d) **It is a defense that the child is or has ever been married.**

39 SECTION 13. IC 35-42-4-12, AS AMENDED BY P.L.168-2014,
40 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2018]: Sec. 12. (a) This section applies only to a sex offender
42 (as defined in IC 11-8-8-4.5).



1 (b) A sex offender who knowingly or intentionally violates a:

2 (1) condition of probation;

3 (2) condition of parole; or

4 (3) rule of a community transition program;

5 that prohibits the offender from using a social networking web site or
6 an instant messaging or chat room program to communicate, directly
7 or through an intermediary, with a child less than ~~sixteen (16)~~ **eighteen**
8 **(18)** years of age commits a sex offender Internet offense, a Class A
9 misdemeanor. However, the offense is a Level 6 felony if the person
10 has a prior unrelated conviction under this section.

11 (c) It is a defense to a prosecution under subsection (b) that the
12 person reasonably believed that the child was at least ~~sixteen (16)~~
13 **eighteen (18)** years of age.

14 SECTION 14. IC 35-44.1-3-9, AS AMENDED BY P.L.95-2017,
15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2018]: Sec. 9. (a) A person who is being supervised on
17 lifetime parole (as described in IC 35-50-6-1) and who knowingly or
18 intentionally violates a condition of lifetime parole that involves direct
19 or indirect contact with a child less than ~~sixteen (16)~~ **eighteen (18)**
20 years of age or with the victim of a crime that was committed by the
21 person commits criminal parole violation by a sexual predator, a Level
22 6 felony.

23 (b) The offense described in subsection (a) is a Level 5 felony if the
24 person has a prior unrelated conviction under this section.

25 SECTION 15. IC 35-50-2-14, AS AMENDED BY P.L.125-2009,
26 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2018]: Sec. 14. (a) As used in this section, "sex offense"
28 means a felony conviction:

29 (1) under IC 35-42-4-1 through ~~IC 35-42-4-9~~ **IC 35-42-4-9.5** or
30 under IC 35-46-1-3;

31 (2) for an attempt or conspiracy to commit an offense described
32 in subdivision (1); or

33 (3) for an offense under the laws of another jurisdiction, including
34 a military court, that is substantially similar to an offense
35 described in subdivision (1).

36 (b) The state may seek to have a person sentenced as a repeat sexual
37 offender for a sex offense described in subsection (a)(1) or (a)(2) by
38 alleging, on a page separate from the rest of the charging instrument,
39 that the person has accumulated one (1) prior unrelated felony
40 conviction for a sex offense described in subsection (a).

41 (c) After a person has been convicted and sentenced for a felony
42 described in subsection (a)(1) or (a)(2) after having been sentenced for



1 a prior unrelated sex offense described in subsection (a), the person has
2 accumulated one (1) prior unrelated felony sex offense conviction.
3 However, a conviction does not count for purposes of this subsection,
4 if:
5 (1) it has been set aside; or
6 (2) it is a conviction for which the person has been pardoned.
7 (d) If the person was convicted of the sex offense in a jury trial, the
8 jury shall reconvene to hear evidence in the enhancement hearing. If
9 the trial was to the court, or the judgment was entered on a guilty plea,
10 the court alone shall hear evidence in the enhancement hearing.
11 (e) A person is a repeat sexual offender if the jury (if the hearing is
12 by jury) or the court (if the hearing is to the court alone) finds that the
13 state has proved beyond a reasonable doubt that the person had
14 accumulated one (1) prior unrelated felony sex offense conviction.
15 (f) The court may sentence a person found to be a repeat sexual
16 offender to an additional fixed term that is the advisory sentence for the
17 underlying offense. However, the additional sentence may not exceed
18 ten (10) years.

