

SENATE BILL No. 290

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-6-24; IC 31-30-3; IC 36-2-13-12.

Synopsis: Detention of juvenile arrestees. Prohibits a juvenile arrestee who meets certain requirements from being housed with adult inmates prior to trial except when it would be in the best interests of justice to house the arrestee with adults. Requires the court to consider: (1) the age of the juvenile arrestee; (2) the physical and mental maturity of the juvenile arrestee; (3) the present mental state of the juvenile arrestee, including whether the juvenile arrestee presents an imminent risk of harm to himself or herself or others; (4) the nature and circumstances of the alleged offense; (5) any prior history of delinquent or criminal acts of the juvenile arrestee; and (6) the ability of the adult facility to meet the specific needs of the juvenile arrestee; in determining whether the best interests of justice require that the juvenile arrestee be housed with adults. Provides that a juvenile arrestee may not be held in an adult facility for more than 180 days unless good cause is shown. Requires the court to review its determination of placement every 30 days. Requires the county sheriff to refer to persons under 18 years of age by only their initials. Mandates that the county sheriff's weekly report of inmates in the county jail must be delivered to the Indiana criminal justice institute. Requires the Indiana criminal justice institute to make the report available to the public.

Effective: July 1, 2021.

Breaux

January 11, 2021, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 290

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

1 SECTION 1. IC 5-2-6-24, AS AMENDED BY P.L.142-2018,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 24. (a) As used in this section, "criminal code
4 reform" refers to statutory provisions relating to criminal law enacted
5 by P.L.158-2013 and HEA 1006-2014.
6 (b) The institute shall monitor and evaluate criminal code reform as
7 described in this section.
8 (c) The institute shall annually gather data and analyze the impact
9 of criminal code reform on:
10 (1) local units of government;
11 (2) the department of correction; and
12 (3) the office of judicial administration.
13 (d) The institute shall prepare an annual report, in conjunction with
14 the justice reinvestment advisory council (established by
15 IC 33-38-9.5-2), containing the results of its analysis before December
16 1 of each year. The report shall be provided to the governor, the chief
17 justice, and the legislative council. The report provided to the



- 1 legislative council must be in an electronic format under IC 5-14-6.
 2 (e) The report required under this section must:
 3 (1) include an analysis of:
 4 (A) the effect of criminal code reform on:
 5 (i) county jails;
 6 (ii) community corrections programs;
 7 (iii) probation departments; and
 8 (iv) courts;
 9 (B) recidivism rates;
 10 (C) reentry court programs; and
 11 (D) data relevant to the availability and effectiveness of mental
 12 health and addiction programs for persons who are at risk of
 13 entering the criminal justice system, who are in the criminal
 14 justice system, and who have left the criminal justice system;
 15 (2) track the number of requests for sentence modification that are
 16 set for hearing by the court, including the relief granted by the
 17 court, if any. The report must include whether the grant or denial
 18 of a request for sentence modification was discretionary or
 19 mandatory, and whether the prosecuting attorney opposed the
 20 request for sentence modification, agreed to the request for
 21 sentence modification, or took no position on the request for
 22 sentence modification;
 23 (3) track, by age and offense, the number of juveniles under the
 24 jurisdiction of an adult court due to:
 25 (A) lack of jurisdiction under IC 31-30-1-4; or
 26 (B) waiver of jurisdiction under IC 31-30-3-2 through
 27 IC 31-30-3-6;
 28 (4) track the number of juveniles under the jurisdiction of adult
 29 court due to a juvenile court not having jurisdiction of the cases
 30 in accordance with IC 31-30-1-4, by:
 31 (A) age;
 32 (B) sex;
 33 (C) race;
 34 (D) county of prosecution;
 35 (E) offenses charged;
 36 (F) convictions received; and
 37 (G) sentences received; ~~and~~
 38 (5) track the number of waivers of juvenile court jurisdiction
 39 granted under IC 31-30-3-2 through IC 31-30-3-6 by:
 40 (A) age;
 41 (B) sex;
 42 (C) race;



- 1 (D) charges filed in juvenile court in which a waiver was
 2 sought;
 3 (E) charges filed in adult court following the waiver of
 4 juvenile court jurisdiction;
 5 (F) county of prosecution;
 6 (G) convictions received; and
 7 (H) sentences received; **and**
 8 **(6) track the number of persons committed to county jails who**
 9 **are pending trial or have been committed for offenses alleged**
 10 **or found to have been committed before the person reached**
 11 **eighteen (18) years of age for either waivers of juvenile court**
 12 **jurisdiction granted under IC 31-30-3-2 through IC 31-30-3-6**
 13 **or lack of jurisdiction under IC 31-30-1-4.**
 14 (f) All local units of government and local elected officials,
 15 including sheriffs, prosecuting attorneys, judges, and county fiscal
 16 bodies, shall cooperate with the institute by providing data as requested
 17 by the institute.
 18 (g) State agencies, including the department of correction, the
 19 Indiana prosecuting attorneys council, the Indiana public defender
 20 council, and the office of judicial administration, shall assist the
 21 institute by providing requested data in a timely manner.
 22 (h) Based on their analysis, the institute and the justice reinvestment
 23 advisory council shall include recommendations to improve the
 24 criminal justice system in Indiana, with particular emphasis being
 25 placed on recommendations that relate to sentencing policies and
 26 reform.
 27 (i) The institute and the justice reinvestment advisory council shall
 28 include research data relevant to their analysis and recommendations
 29 in the report.
 30 (j) The institute shall:
 31 (1) make the data collected under subsection (e)(4) and (e)(5)
 32 available to the public in an annual report, by fiscal year, due by
 33 October 30 of each year;
 34 (2) post the annual report required by subdivision (1) on the
 35 institute's Internet web site; **and**
 36 **(3) post the reports received from the county sheriff under**
 37 **IC 36-2-13-12 on the institute's Internet web site; and**
 38 ~~(3)~~ **(4) provide a copy of the annual report required by subdivision**
 39 **(1) to the commission on improving the status of children in**
 40 **Indiana established by IC 2-5-36-3.**
 41 SECTION 2. IC 31-30-3-8 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. If jurisdiction is



1 waived, the juvenile court:

2 (1) shall order the child held for proceedings; ~~in the court to~~
3 ~~which the child is waived;~~ and

4 (2) may fix a recognizance bond for the child to answer the
5 charge;

6 in the court to which the child is waived.

7 SECTION 3. IC 31-30-3-12 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2021]: **Sec. 12. (a) As used in this section, "juvenile arrestee"**
10 **means a child who is less than eighteen (18) years of age who has**
11 **been charged with a crime as an adult and is awaiting trial,**
12 **sentencing, or other legal process.**

13 **(b) A juvenile arrestee who is housed in a secure facility shall**
14 **not be held in:**

15 **(1) an adult facility, except as provided in IC 31-37-7-2; or**

16 **(2) a facility that has sight or sound contact with adult**
17 **inmates;**

18 **unless a court finds, after a hearing and in writing, that it is in the**
19 **best interests of justice for the juvenile arrestee to be housed in an**
20 **adult facility or have sight or sound contact with adult inmates.**

21 **(c) In making a determination under subsection (b), the court**
22 **shall consider:**

23 **(1) the age of the juvenile arrestee;**

24 **(2) the physical and mental maturity of the juvenile arrestee;**

25 **(3) the present mental state of the juvenile arrestee, including**
26 **whether the juvenile arrestee presents an imminent risk of**
27 **harm to himself or herself or others;**

28 **(4) the nature and circumstances of the alleged offense;**

29 **(5) any prior history of delinquent or criminal acts of the**
30 **juvenile arrestee;**

31 **(6) the relative ability of the available adult and juvenile**
32 **detention facilities to meet the specific needs of the juvenile**
33 **arrestee;**

34 **(7) the relative ability of the available adult and juvenile**
35 **detention facilities to protect the safety of the public and other**
36 **detained youth; and**

37 **(8) any other relevant factor in determining whether the**
38 **placement is appropriate for the juvenile arrestee.**

39 **(d) If a court determines it is in the best interests of justice for**
40 **the juvenile arrestee to be housed in an adult facility or have sight**
41 **or sound contact with adult inmates, the court may order that the**
42 **juvenile arrestee be held in an adult facility for not more than one**



1 hundred eighty (180) days.

2 (e) The court may extend the one hundred eighty (180) day
3 period under subsection (d) for another one hundred eighty (180)
4 days if the court finds, in writing, that there is good cause to extend
5 the juvenile arrestee's placement in an adult facility, unless the
6 juvenile arrestee waives this requirement.

7 (f) If the court orders a juvenile arrestee to be held under
8 subsection (d) or (e), the court shall hold a hearing at least one (1)
9 time every thirty (30) days to review whether it is still in the best
10 interests of justice to house the arrestee in the adult facility.

11 SECTION 4. IC 36-2-13-12 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 12. (a) The sheriff shall
13 file with the appropriate court, **the Indiana criminal justice institute**,
14 and, in the case of a person awaiting trial on a criminal charge, with the
15 county prosecuting attorney, a weekly report of each person confined
16 in the county jail. The report must include the confined person's name
17 **or initials, if the person is alleged to have committed offenses**
18 **before reaching eighteen (18) years of age, the current age of any**
19 **person confined for an offense alleged or found to have been**
20 **committed before reaching eighteen (18) years of age**, the date of
21 commitment, the court or officer ordering the commitment, the
22 criminal charge, conviction, or civil action underlying the commitment,
23 the term of commitment, and whether the person is awaiting trial or
24 serving a term of imprisonment.

25 (b) The sheriff shall file with the county executive an annual report
26 of the condition of the county jail and any recommended improvements
27 in its maintenance and operation. The report shall also be filed with the
28 county auditor and maintained as a public record.

