

# HOUSE BILL No. 1024

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-41-4-2; IC 35-42-4-7.

**Synopsis:** Sexual offenses against a child. Makes child seduction a Class B felony instead of a Class D felony. Provides that a prosecution for sexual misconduct with a minor, if it is committed by a person who is at least 21 years of age, may be commenced during any period before the alleged victim of the offense reaches 31 years of age. (Currently, the statute of limitations for sexual misconduct with a minor is five years, regardless of the age of the defendant.) Makes a technical correction.

**Effective:** July 1, 1998.

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January 6, 1998, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

## HOUSE BILL No. 1024

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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 35-41-4-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Except as  
3 otherwise provided in this section, a prosecution for an offense is barred  
4 unless it is commenced:  
5 (1) within five (5) years after the commission of a Class B, Class C,  
6 or Class D felony; or  
7 (2) within two (2) years after the commission of a misdemeanor.  
8 (b) A prosecution for murder or a Class A felony may be commenced  
9 at any time.  
10 (c) A prosecution for the following offenses is barred unless  
11 commenced before the date that the alleged victim of the offense reaches  
12 thirty-one (31) years of age:  
13 (1) IC 35-42-4-3(a) (Child molesting).  
14 (2) IC 35-42-4-5 (Vicarious sexual gratification).  
15 (3) IC 35-42-4-6 (Child solicitation).  
16 (4) IC 35-42-4-7 (Child seduction).  
17 (5) **IC 35-42-4-9 (Sexual misconduct with a minor), if it is**



1           **committed by a person who is at least twenty-one (21) years of**  
 2           **age on the date the offense is committed.**

3           ~~(5)~~ (6) IC 35-46-1-3 (Incest).

4           ~~(d)~~ Notwithstanding subsection ~~(c)~~(1), a prosecution for child  
 5           ~~molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d)~~ where a person who  
 6           is at least sixteen (16) years of age allegedly commits the offense against  
 7           a child who is not more than two (2) years younger than the older person;  
 8           is barred unless commenced within five (5) years after the commission of  
 9           the offense.

10          ~~(e)~~ (d) A prosecution for forgery of an instrument for payment of  
 11          money, or for the uttering of a forged instrument, under IC 35-43-5-2 is  
 12          barred unless it is commenced within five (5) years after the maturity of  
 13          the instrument.

14          ~~(f)~~ (e) If a complaint, indictment, or information is dismissed because  
 15          of an error, defect, insufficiency, or irregularity, a new prosecution may  
 16          be commenced within ninety (90) days after the dismissal even if the  
 17          period of limitation has expired at the time of dismissal or will expire  
 18          within ninety (90) days after the dismissal.

19          ~~(g)~~ (f) The period within which a prosecution must be commenced does  
 20          not include any period in which:

- 21               (1) the accused person is not usually and publicly resident in Indiana  
 22               or so conceals himself that process cannot be served on him;  
 23               (2) the accused person conceals evidence of the offense, and  
 24               evidence sufficient to charge him with that offense is unknown to the  
 25               prosecuting authority and could not have been discovered by that  
 26               authority by exercise of due diligence; or  
 27               (3) the accused person is a person elected or appointed to office  
 28               under statute or constitution, if the offense charged is theft or  
 29               conversion of public funds or bribery while in public office.

30          ~~(h)~~ (g) For purposes of tolling the period of limitation only, a  
 31          prosecution is considered commenced on the earliest of these dates:

- 32               (1) The date of filing of an indictment, information, or complaint  
 33               before a court having jurisdiction.  
 34               (2) The date of issuance of a valid arrest warrant.  
 35               (3) The date of arrest of the accused person by a law enforcement  
 36               officer without a warrant, if the officer has authority to make the  
 37               arrest.

38          ~~(i)~~ (h) A prosecution is considered timely commenced for any offense  
 39          to which the defendant enters a plea of guilty, notwithstanding that the  
 40          period of limitation has expired.

41          SECTION 2. IC 35-42-4-7, AS AMENDED BY P.L.1-1997,  
 42          SECTION 148, IS AMENDED TO READ AS FOLLOWS



- 1 [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) As used in this section,  
2 "adoptive parent" has the meaning set forth in IC 31-9-2-6.  
3 (b) As used in this section, "adoptive grandparent" means the parent  
4 of an adoptive parent.  
5 (c) As used in this section, "custodian" includes any person responsible  
6 for a child's welfare who is employed by a public or private residential  
7 school or foster care facility.  
8 (d) As used in this section, "stepparent" means an individual who is  
9 married to a child's custodial or noncustodial parent and is not the child's  
10 adoptive parent.  
11 (e) If a person who is:  
12 (1) at least eighteen (18) years of age; and  
13 (2) the guardian, adoptive parent, adoptive grandparent, custodian,  
14 or stepparent of a child at least sixteen (16) years of age but less  
15 than eighteen (18) years of age;  
16 engages in sexual intercourse or deviate sexual conduct with the child, the  
17 person commits child seduction, a ~~Class D~~ **Class B** felony.

