

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 44, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 8, after "criminal" insert "**or delinquent**".
- 2 Page 1, line 11, delete "crime".
- 3 Page 1, line 14, delete "and that all" and insert ".".
- 4 Page 1, delete lines 15 through 16.
- 5 Page 2, line 9, after "crime" insert "**or an act of delinquency**".
- 6 Page 2, line 11, delete "liberally".
- 7 Page 2, line 12, delete "of crime".
- 8 Page 2, line 12, delete "." and insert "**without interfering with the**
- 9 **rights of the accused to receive a fair trial or the duty of the**
- 10 **prosecuting attorney to represent the people of Indiana.**".
- 11 Page 2, between lines 18 and 19, begin a new paragraph and insert:
- 12 "**Sec. 3. In cases involving a delinquent act, a reference in this**
- 13 **article to:**
- 14 (1) **a criminal court shall be treated as a reference to the**
- 15 **juvenile court; and**
- 16 (2) **a criminal proceeding or an action related to a criminal**
- 17 **proceeding shall be treated as a reference to the equivalent**
- 18 **proceeding or action under IC 31.**".

- 1 Page 2, between lines 21 and 22, begin a new paragraph and insert:
 2 **"Sec. 2. "Accused" means that an indictment or information**
 3 **charging a person with a crime or a petition alleging that a child is**
 4 **a delinquent child has been filed.**
- 5 **Sec. 3. "Crime" includes a delinquent act.**
- 6 **Sec. 4. "Delinquent act" has the meaning set forth in**
 7 **IC 31-37-1-2."**
- 8 Page 2, line 22, delete "2." and insert "5."
 9 Page 2, line 23, after "under" insert **"IC 31 or"**.
- 10 Page 2, line 23, after "IC 35-33 of" insert **"an accused person from**
 11 **confinement."**
- 12 Page 2, delete lines 24 through 25.
- 13 Page 2, line 26, delete "3." and insert **"6."**
- 14 Page 2, line 33, delete "or".
- 15 Page 2, line 34, delete "." and insert **"; or**
 16 **(4) a secure juvenile facility or shelter care facility."**
- 17 Page 2, line 35, delete "4." and insert **"7."**
- 18 Page 3, line 1, delete "5." and insert **"8."**
- 19 Page 3, line 1, delete ", a corporation, a partnership," and insert
 20 **"that"**.
- 21 Page 3, line 2, delete "or an association who".
- 22 Page 3, line 2, delete "criminal" and insert **"crime that was**
 23 **perpetrated directly against the person. The term does not include**
 24 **a person that has been charged with a crime arising out of the same**
 25 **occurrence."**
- 26 Page 3, delete line 3.
- 27 Page 3, line 7, after "2." insert **"(a)"**.
- 28 Page 3, line 11, after "crime" insert **"perpetrated directly"**.
- 29 Page 3, between lines 11 and 12, begin a new paragraph and insert:
 30 **"(b) Whenever a person accused or convicted of committing a**
 31 **crime is released or escapes from the custody of a mental health**
 32 **treatment agency or a hospital that is not operated by a county**
 33 **sheriff or the department of correction, the court committing the**
 34 **accused or convicted person to the mental health treatment agency**
 35 **or hospital shall carry out this section to inform the victim of the**
 36 **release or escape. The mental health treatment agency or hospital**
 37 **shall provide the court with sufficient information about the**
 38 **release or escape to allow the court to carry out this section."**

- 1 Page 3, line 12, after "3." insert "(a) This section applies if either
2 of the following has occurred:
- 3 (1) The alleged felony or delinquent act that would have been
4 a felony if committed by an adult was directly perpetrated
5 against the victim.
- 6 (2) The alleged misdemeanor or delinquent act that would
7 have been a misdemeanor if committed by an adult was
8 directly perpetrated against the victim and the victim has
9 complied with the notice requirements under IC 35-40-10."
- 10 Page 3, line 12, before "A victim" begin a new paragraph and insert:
11 "(b)".
- 12 Page 3, line 30, after "7." insert "(a)".
- 13 Page 3, line 31, delete "and the" and insert ".".
- 14 Page 3, line 32, before "right" begin a new paragraph and insert:
15 "(b) Notwithstanding IC 35-38-1-13, the victim has the".
- 16 Page 3, line 33, after "containing" insert "the following:
17 (1) The source of confidential information.
18 (2) Information about another victim.
19 (3) Other information determined confidential or privileged
20 by the judge in a proceeding.
21 The information given to the victim must afford the victim a fair
22 opportunity to respond to the material included in the presentence
23 report."
- 24 Page 3, delete line 34.
- 25 Page 4, line 14, delete "ensure the following:" and insert "provide
26 that:".
- 27 Page 4, delete lines 15 through 16.
- 28 Page 4, line 17, delete "(2) That" and insert "(1)".
- 29 Page 4, line 18, delete "." and insert "; and".
- 30 Page 4, line 19, delete "(3) That" and insert "(2)".
- 31 Page 4, line 19, delete "vigorously".
- 32 Page 4, line 19, delete "by law" and insert ".".
- 33 Page 4, delete lines 20 through 21.
- 34 Page 6, line 39, delete "law." and insert "IC 35-40-5-7."
- 35 Page 7, between lines 31 and 32, begin a new paragraph and insert:
36 "Sec. 3. A notice under this chapter must be given by a law
37 enforcement agency that has custody of the person at the time of
38 the escape or release to a victim:

1 **(1) before the person is released by the law enforcement**
 2 **agency, if possible; or**

3 **(2) as soon as practicable after the person escapes or has been**
 4 **released by the law enforcement agency."**

5 Page 8, line 5, delete "a victim has made" and insert "**the court**
 6 **described in IC 35-40-5-2 has received"**.

7 Page 8, line 5, after "notice" delete ", a" and insert "**from a victim**
 8 **and has communicated the request to a mental health treatment**
 9 **agency, the"**.

10 Page 8, line 6, delete "victim" and insert "**court described in**
 11 **IC 35-40-5-2"**.

12 Page 8, line 12, delete "mail a" and insert "**immediately notify the**
 13 **court described in IC 35-40-5-2"**.

14 Page 8, line 13, delete "notification to a victim immediately".

15 Page 8, between lines 18 and 19, begin a new paragraph and insert:

16 "**Sec. 3. The court described in IC 35-40-5-2 shall give the notice**
 17 **required under IC 35-40-5-2 on behalf of the mental health**
 18 **treatment agency."**

19 Page 8, line 31, delete "developed by the attorney general." and
 20 insert "**designated by the prosecuting attorney. The prosecuting**
 21 **attorneys council of Indiana established under IC 33-14-8-1 shall**
 22 **develop and disseminate model notice forms for use by prosecuting**
 23 **attorneys."**

24 Page 9, between lines 1 and 2, begin a new paragraph and insert:

25 "**Chapter 12. Procedures Related to Notices and Consultations**

26 **Sec. 1. (a) This section applies if:**

27 **(1) the victim is an individual;**

28 **(2) the victim is incompetent, deceased, less than eighteen (18)**
 29 **years of age, or otherwise incapable of receiving or**
 30 **understanding a notice or consultation required under this**
 31 **article; and**

32 **(3) a person has not been designated under IC 35-40-13 to**
 33 **exercise the rights of the victim under this article.**

34 **(b) A notice or consultation required under this article may be**
 35 **performed by notifying or consulting with at least one (1) of the**
 36 **next of kin or the parent, guardian, or custodian of the victim.**

37 **Sec. 2. (a) This section applies if the victim is an entity other**
 38 **than an individual.**

1 **(b) A notice or consultation required under this article may be**
 2 **performed by notifying or consulting with a responsible officer or**
 3 **agent of the entity.**

4 **Sec. 3. (a) This section applies if the victim is a partnership.**

5 **(b) A notice or consultation required under this article may be**
 6 **performed by notifying or consulting with at least one (1) partner.**

7 **Sec. 4. (a) This section applies if the victim is an entity other**
 8 **than an individual.**

9 **(b) A request for notice under IC 35-40-10 must identify the**
 10 **name and the mailing address of the person who is to receive**
 11 **notices and consultations on behalf of the entity.**

12 **Sec. 5. (a) This section applies if there are multiple victims that**
 13 **are entitled to notices or consultations under this article.**

14 **(b) The prosecuting attorney for the county in which the crime**
 15 **occurred may adopt procedures that afford to a group of victims**
 16 **the rights afforded by this article."**

17 Page 9, line 2, delete "12." and insert "13."

18 Page 9, between lines 16 and 17, begin a new paragraph and insert:

19 **"Sec. 4. If section 3 of this chapter does not apply, the court shall**
 20 **consider appointing a relative of the incompetent, deceased, or**
 21 **otherwise incapable victim as the lawful representative."**

22 Page 9, line 17, delete "4." and insert "5."

23 Page 9, line 20, delete "Whether there is a relative of the victim who
 24 is not" and insert "**Any**".

25 Page 9, line 21, delete "substantially or adversely affected by the".

26 Page 9, line 22, delete "against a member of the" and insert "**that**
 27 **substantially or adversely affected the person."**

28 Page 9, delete line 23.

29 Page 9, delete lines 37 through 38.

- 1 Page 9, after line 38 begin a new paragraph and insert:
- 2 "SECTION 2. THE FOLLOWING ARE REPEALED [EFFECTIVE
- 3 JULY 1,1999]: IC 33-14-10; IC 35-33-12."
(Reference is to SB 44 as introduced.)

and when so amended that said Bill do pass.

Committee Vote: Yeas 8, Nays 1.

Senator Bray, Chairperson