
HOUSE BILL No. 1417

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-14-4-4; IC 31-19-9-8; IC 35-42-4-10; IC 35-50-5-3.

Synopsis: Statutory rape. Establishes the offense of statutory rape as a Class A misdemeanor. Provides that a person who engages in sexual intercourse or deviate sexual conduct with an unemancipated child who is at least ten years younger than the person commits statutory rape. Requires a court to order a person convicted of statutory rape resulting in a pregnancy to pay restitution to the victim for any reasonable and necessary expenses relating to the pregnancy and childbirth. Specifies that the lack of a prosecution or conviction for statutory rape does not bar a person from initiating a paternity action and seeking child support and payment for expenses relating to the pregnancy and childbirth. Provides that consent to an adoption is not required from a biological father of a child born out of wedlock who: (1) was conceived as the result of a statutory rape; and (2) is the subject of an adoption.

Effective: July 1, 2000.

Budak, Becker

January 11, 2000, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1417

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 31-14-4-4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2000]: **Sec. 4. The lack of a prosecution or conviction under**
4 **IC 35-42-4-10 for an alleged statutory rape does not bar a person**
5 **from:**

6 (1) **initiating a paternity action under this article; and**

7 (2) **seeking:**

8 (A) **child support; and**

9 (B) **payment for expenses;**

10 **relating to a pregnancy and childbirth resulting from the alleged**
11 **statutory rape.**

12 SECTION 2. IC 31-19-9-8 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) Consent to
14 adoption is not required from any of the following:

15 (1) A parent or parents if the child is adjudged to have been
16 abandoned or deserted for at least six (6) months immediately
17 preceding the date of the filing of the petition for adoption.



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- 1 (2) A parent of a child in the custody of another person if for a
 2 period of at least one (1) year the parent:
 3 (A) fails without justifiable cause to communicate
 4 significantly with the child when able to do so; or
 5 (B) knowingly fails to provide for the care and support of the
 6 child when able to do so as required by law or judicial decree.
 7 (3) The biological father of a child born out of wedlock whose
 8 paternity has not been established:
 9 (A) by a court proceeding other than the adoption proceeding;
 10 or
 11 (B) by executing a paternity affidavit under IC 16-37-2-2.1.
 12 (4) The biological father of a child born out of wedlock who was
 13 conceived as a result of:
 14 (A) a rape for which the father was convicted under
 15 IC 35-42-4-1;
 16 (B) child molesting (IC 35-42-4-3);
 17 (C) sexual misconduct with a minor (IC 35-42-4-9); or
 18 (D) **statutory rape (IC 35-42-4-10); or**
 19 (E) incest (IC 35-46-1-3).
 20 (5) The putative father of a child born out of wedlock if the
 21 putative father's consent to adoption is irrevocably implied under
 22 section 15 of this chapter.
 23 (6) The biological father of a child born out of wedlock if the:
 24 (A) father's paternity is established after the filing of a petition
 25 for adoption in a court proceeding or by executing a paternity
 26 affidavit under IC 16-37-2-2.1; and
 27 (B) father is required to but does not register with the putative
 28 father registry established by IC 31-19-5 within the period
 29 required by IC 31-19-5-12.
 30 (7) A parent who has relinquished the parent's right to consent to
 31 adoption as provided in this chapter.
 32 (8) A parent after the parent-child relationship has been
 33 terminated under IC 31-35 (or IC 31-6-5 before its repeal).
 34 (9) A parent judicially declared incompetent or mentally defective
 35 if the court dispenses with the parent's consent to adoption.
 36 (10) A legal guardian or lawful custodian of the person to be
 37 adopted who has failed to consent to the adoption for reasons
 38 found by the court not to be in the best interests of the child.
 39 (b) If a parent has made only token efforts to support or to
 40 communicate with the child, the court may declare the child abandoned
 41 by the parent.

42 SECTION 3. IC 35-42-4-10 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2000]: **Sec. 10. A person who performs or submits to sexual
3 intercourse or deviate sexual conduct with an unemancipated child
4 who is at least ten (10) years younger than the person commits
5 statutory rape, a Class A misdemeanor.**

6 SECTION 4. IC 35-50-5-3 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) Except as
8 provided in ~~subsection~~ **subsections (i) and (j)**, in addition to any
9 sentence imposed under this article for a felony or misdemeanor, the
10 court may, as a condition of probation or without placing the person on
11 probation, order the person to make restitution to the victim of the
12 crime, the victim's estate, or the family of a victim who is deceased.
13 The court shall base its restitution order upon a consideration of:

- 14 (1) property damages of the victim incurred as a result of the
15 crime, based on the actual cost of repair (or replacement if repair
16 is inappropriate);
17 (2) medical and hospital costs incurred by the victim (before the
18 date of sentencing) as a result of the crime;
19 (3) earnings lost by the victim (before the date of sentencing) as
20 a result of the crime including earnings lost while the victim was
21 hospitalized or participating in the investigation or trial of the
22 crime; and
23 (4) funeral, burial, or cremation costs incurred by the family or
24 estate of a homicide victim as a result of the crime.

25 (b) A restitution order under subsection (a), ~~or~~ (i), **or (j)** is a
26 judgment lien that:

- 27 (1) attaches to the property of the person subject to the order;
28 (2) may be perfected;
29 (3) may be enforced to satisfy any payment that is delinquent
30 under the restitution order by the person in whose favor the order
31 is issued or the person's assignee; and
32 (4) expires;

33 in the same manner as a judgment lien created in a civil proceeding.

34 (c) When a restitution order is issued under subsection (a), the
35 issuing court may order the person to pay the restitution, or part of the
36 restitution, directly to the victim services division of the Indiana
37 criminal justice institute in an amount not exceeding:

- 38 (1) the amount of the award, if any, paid to the victim under
39 IC 5-2-6.1; and
40 (2) the cost of the reimbursements, if any, for emergency services
41 provided to the victim under IC 16-10-1.5 (before its repeal) or
42 IC 16-21-8.



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1 The victim services division of the Indiana criminal justice institute
 2 shall deposit the restitution received under this subsection in the
 3 violent crime victims compensation fund established by IC 5-2-6.1-40.

4 (d) When a restitution order is issued under subsection (a), ~~or~~ (i), **or**
 5 **(j)**, the issuing court shall send a certified copy of the order to the clerk
 6 of the circuit court in the county where the felony or misdemeanor
 7 charge was filed. The restitution order must include the following
 8 information:

9 (1) The name and address of the person that is to receive the
 10 restitution.

11 (2) The amount of restitution the person is to receive.

12 Upon receiving the order, the clerk shall enter and index the order in
 13 the circuit court judgment docket in the manner prescribed by
 14 IC 33-17-2-3. The clerk shall also notify the Indiana department of
 15 insurance of an order of restitution under subsection (i) **or (j)**.

16 (e) An order of restitution under subsection (a), ~~or~~ (i), **or (j)** does
 17 not bar a civil action for:

18 (1) damages that the court did not require the person to pay to the
 19 victim under the restitution order but arise from an injury or
 20 property damage that is the basis of restitution ordered by the
 21 court; and

22 (2) other damages suffered by the victim.

23 (f) Regardless of whether restitution is required under subsection (a)
 24 as a condition of probation or other sentence, the restitution order is not
 25 discharged by the completion of any probationary period or other
 26 sentence imposed for a felony or misdemeanor.

27 (g) A restitution order under subsection (a), ~~or~~ (i), **or (j)** is not
 28 discharged by the liquidation of a person's estate by a receiver under
 29 IC 34-48-1, IC 34-48-4, IC 34-48-5, and IC 34-48-6 (or IC 34-1-12 and
 30 IC 34-2-7 before their repeal).

31 (h) The attorney general may pursue restitution ordered by the court
 32 under subsections (a) and (c) on behalf of the victim services division
 33 of the Indiana criminal justice institute established under IC 5-2-6-8.

34 (i) The court may order the person convicted of an offense under
 35 IC 35-43-9 to make restitution to the victim of the crime. The court
 36 shall base its restitution order upon a consideration of the amount of
 37 money that the convicted person converted, misappropriated, or
 38 received, or for which the convicted person conspired. The restitution
 39 order issued for a violation of IC 35-43-9 must comply with
 40 subsections (b), (d), (e), and (g) and is not discharged by the
 41 completion of any probationary period or other sentence imposed for
 42 a violation of IC 35-43-9.



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1 (j) This subsection applies whenever a person is convicted of a
2 statutory rape under IC 35-42-4-10 that results in a pregnancy. In
3 addition to any other penalty imposed for a conviction under
4 IC 35-42-4-10, the court shall order the convicted person to make
5 restitution to the victim of the offense for any:

6 (1) reasonable and necessary expenses of the victim's
7 pregnancy and childbirth, including the cost of prenatal care,
8 delivery, hospitalization, and postnatal care; and

9 (2) child support dating from the date of birth of the child
10 born of the pregnancy.

11 If the expenses under subdivision (1) have been paid through
12 Medicaid, the court shall order the convicted person to reimburse
13 the state for the expenses. Reimbursement for expenses paid
14 through Medicaid under this subsection must be made to the office
15 of Medicaid policy and planning for deposit in the state general
16 fund. The restitution order issued for a conviction under
17 IC 35-42-4-10 must comply with subsections (b), (d), (e), and (g)
18 and is not discharged by the completion of any probationary period
19 or other sentence imposed for a conviction under IC 35-42-4-10.

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