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# HOUSE BILL No. 1489

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-8-8; IC 35-42-4-14.

**Synopsis:** Use of minor's identity for sexual gratification. Makes it a Class D felony for a person at least 18 years of age to use a computer network to impersonate a specific child if the impersonation is done with intent to arouse or satisfy the sexual desires of any person. Increases the penalty to a Class C felony if: (1) it results, directly or indirectly, in bodily injury to the impersonated child; (2) as a result of the impersonation, another person commits, attempts to commit, or conspires to commit a felony against the impersonated child; or (3) the person has a prior unrelated conviction for the offense. Provides that a person who commits impersonating a minor for sexual purposes is required to register as a sex or violent offender. Makes conforming amendments.

**Effective:** July 1, 2009.

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### Ruppel, Cheatham

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January 14, 2009, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1489



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 ADDED BY P.L.216-2007,  
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: 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).  
8 (3) Child molesting (IC 35-42-4-3).  
9 (4) Child exploitation (IC 35-42-4-4(b)).  
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 as a Class A, Class B, or  
15 Class C felony (IC 35-42-4-9), unless:  
16 (A) the person is convicted of sexual misconduct with a minor  
17 as a Class C felony;



- 1 (B) the person is not more than:
- 2 (i) four (4) years older than the victim if the offense was
- 3 committed after June 30, 2007; or
- 4 (ii) five (5) years older than the victim if the offense was
- 5 committed before July 1, 2007; and
- 6 (C) the sentencing court finds that the person should not be
- 7 required to register as a sex offender.
- 8 (9) Incest (IC 35-46-1-3).
- 9 (10) Sexual battery (IC 35-42-4-8).
- 10 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
- 11 (18) years of age, and the person who kidnapped the victim is not
- 12 the victim's parent or guardian.
- 13 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
- 14 than eighteen (18) years of age, and the person who confined or
- 15 removed the victim is not the victim's parent or guardian.
- 16 (13) Possession of child pornography (IC 35-42-4-4(c)).
- 17 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
- 18 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
- 19 victim is less than eighteen (18) years of age.
- 20 (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).
- 21 (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less
- 22 than eighteen (18) years of age.
- 23 **(18) Impersonating a minor for sexual purposes**
- 24 **(IC 35-42-4-14).**
- 25 ~~(18)~~ **(19)** An attempt or conspiracy to commit a crime listed in
- 26 ~~subdivisions (1) through (17):~~ **this subsection.**
- 27 ~~(19)~~ **(20)** 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 ~~subdivisions (1) through (18):~~ **this**
- 30 **subsection.**
- 31 (b) The term includes:
- 32 (1) a person who is required to register as a sex offender in any
- 33 jurisdiction; and
- 34 (2) a child who has committed a delinquent act and who:
- 35 (A) is at least fourteen (14) years of age;
- 36 (B) is on probation, is on parole, is discharged from a facility
- 37 by the department of correction, is discharged from a secure
- 38 private facility (as defined in IC 31-9-2-115), or is discharged
- 39 from a juvenile detention facility as a result of an adjudication
- 40 as a delinquent child for an act that would be an offense
- 41 described in subsection (a) if committed by an adult; and
- 42 (C) is found by a court by clear and convincing evidence to be

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1           likely to repeat an act that would be an offense described in  
2           subsection (a) if committed by an adult.

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

7           SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.216-2007,  
8 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2009]: Sec. 5. (a) Except as provided in section 22 of this  
10 chapter, as used in this chapter, "sex or violent offender" means a  
11 person convicted of any of the following offenses:

12           (1) Rape (IC 35-42-4-1).  
13           (2) Criminal deviate conduct (IC 35-42-4-2).  
14           (3) Child molesting (IC 35-42-4-3).  
15           (4) Child exploitation (IC 35-42-4-4(b)).  
16           (5) Vicarious sexual gratification (including performing sexual  
17 conduct in the presence of a minor) (IC 35-42-4-5).  
18           (6) Child solicitation (IC 35-42-4-6).  
19           (7) Child seduction (IC 35-42-4-7).  
20           (8) Sexual misconduct with a minor as a Class A, Class B, or  
21 Class C felony (IC 35-42-4-9), unless:

22           (A) the person is convicted of sexual misconduct with a minor  
23 as a Class C felony;  
24           (B) the person is not more than:

25           (i) four (4) years older than the victim if the offense was  
26 committed after June 30, 2007; or  
27           (ii) five (5) years older than the victim if the offense was  
28 committed before July 1, 2007; and  
29           (C) the sentencing court finds that the person should not be  
30 required to register as a sex offender.

31           (9) Incest (IC 35-46-1-3).  
32           (10) Sexual battery (IC 35-42-4-8).  
33           (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen  
34 (18) years of age, and the person who kidnapped the victim is not  
35 the victim's parent or guardian.  
36           (12) Criminal confinement (IC 35-42-3-3), if the victim is less  
37 than eighteen (18) years of age, and the person who confined or  
38 removed the victim is not the victim's parent or guardian.  
39           (13) Possession of child pornography (IC 35-42-4-4(c)).  
40           (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.  
41           (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the  
42 victim is less than eighteen (18) years of age.

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1 (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).  
 2 (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less  
 3 than eighteen (18) years of age.  
 4 **(18) Impersonating a minor for sexual purposes**  
 5 **(IC 35-42-4-14).**  
 6 ~~(18)~~ **(19)** Murder (IC 35-42-1-1).  
 7 ~~(19)~~ **(20)** Voluntary manslaughter (IC 35-42-1-3).  
 8 ~~(20)~~ **(21)** An attempt or conspiracy to commit a crime listed in  
 9 subdivisions ~~(1)~~ through ~~(19)~~: **this subsection.**  
 10 ~~(21)~~ **(22)** A crime under the laws of another jurisdiction,  
 11 including a military court, that is substantially equivalent to any  
 12 of the offenses listed in subdivisions ~~(1)~~ through ~~(20)~~ **this**  
 13 **subsection.**  
 14 (b) The term includes:  
 15 (1) a person who is required to register as a sex or violent  
 16 offender in any jurisdiction; and  
 17 (2) a child who has committed a delinquent act and who:  
 18 (A) is at least fourteen (14) years of age;  
 19 (B) is on probation, is on parole, is discharged from a facility  
 20 by the department of correction, is discharged from a secure  
 21 private facility (as defined in IC 31-9-2-115), or is discharged  
 22 from a juvenile detention facility as a result of an adjudication  
 23 as a delinquent child for an act that would be an offense  
 24 described in subsection (a) if committed by an adult; and  
 25 (C) is found by a court by clear and convincing evidence to be  
 26 likely to repeat an act that would be an offense described in  
 27 subsection (a) if committed by an adult.  
 28 (c) In making a determination under subsection (b)(2)(C), the court  
 29 shall consider expert testimony concerning whether a child is likely to  
 30 repeat an act that would be an offense described in subsection (a) if  
 31 committed by an adult.

32 SECTION 3. IC 35-42-4-14 IS ADDED TO THE INDIANA CODE  
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 34 1, 2009]: **Sec. 14. A person at least eighteen (18) years of age who,**  
 35 **with intent to arouse or satisfy the sexual desires of any person,**  
 36 **uses a computer network to impersonate a specific child less than**  
 37 **eighteen (18) years of age commits impersonating a minor for**  
 38 **sexual purposes, a Class D felony. However, the offense is:**

- 39 **(1) a Class C felony if:**  
 40 **(A) it results, directly or indirectly, in bodily injury to the**  
 41 **impersonated child;**  
 42 **(B) as a result of the impersonation, another person**

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1           **commits, attempts to commit, or conspires to commit a**  
2           **felony against the impersonated child; or**  
3           **(C) the person has a prior unrelated conviction for the**  
4           **offense; and**  
5           **(2) a Class B felony if it results, directly or indirectly, in**  
6           **serious bodily injury to the impersonated child.**  
7           SECTION 4. [EFFECTIVE JULY 1, 2009] IC 35-42-4-14, as  
8           **added by this act, applies only to crimes committed after June 30,**  
9           **2009.**

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