

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 2010 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 216

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-36-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 10. Child Pornography and Discovery

Sec. 1. This chapter applies only in a criminal proceeding.

Sec. 2. As used in this chapter, "child pornography" include:

- (1) material described in IC 35-42-4-4(c); and
- (2) material defined in 18 U.S.C. 2256(8).

Sec. 3. In any criminal proceeding, material constituting child pornography must remain in the custody of the state or the court.

Sec. 4. A court shall deny any request by the defendant in a criminal proceeding to copy, photograph, duplicate, or otherwise reproduce any material that constitutes child pornography if the state provides ample opportunity for inspection, viewing, and examination of the material by:

- (1) the defendant;
- (2) the defendant's attorney; and
- (3) any individual the defendant seeks to qualify as an expert;

at a state or local court or law enforcement facility as provided in section 5 of this chapter.

Sec. 5. (a) A court may permit a defendant to inspect, view, and examine material that constitutes child pornography at a state or

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local court or law enforcement facility if the defendant demonstrates that inspecting, viewing, and examining the material is necessary to the defendant's defense.

(b) If a court permits a defendant to inspect, view, and examine material that constitutes child pornography, the court shall issue a protective order under Indiana Trial Rule 26 with respect to the material. The protective order must:

- (1) specifically describe which persons may have access to the material, and prohibit any person not described in the order from having access to the material;
- (2) permit only those persons whose access to the material is necessary for the purposes described in subsection (a) to have access to the material;
- (3) prohibit the further dissemination of the material; and
- (4) prohibit the defendant from having direct access to the material.

The protective order may include any other provision to safeguard the material.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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