



January 23, 2012

# HOUSE BILL No. 1204

DIGEST OF HB 1204 (Updated January 20, 2012 3:09 pm - DI 69)

**Citations Affected:** IC 11-8; IC 35-38.

**Synopsis:** Sex and violent offender registry. Provides that if a person is: (1) a public servant or other person employed by a governmental entity or another person who provides goods or services to a person who is subject to lawful detention; and (2) convicted of engaging in sexual intercourse or deviate sexual conduct with another person who is subject to lawful detention; the person is considered to be a sex offender who must register as a sex or violent offender with the appropriate law enforcement agency. Provides that certain sex or violent offenders who are no longer required to register are not entitled to have their information (other than their addresses) purged from the registry. Specifies certain duties a sex or violent offender and a law enforcement agency are no longer required to perform if the offender is no longer required to register. Specifies that persons who were previously required to register as sex or violent offenders (as well as current sex or violent offenders) are generally not allowed to restrict access to their conviction records. Provides that certain persons who: (1) were less than 21 years of age at the time the persons were convicted of the offense of sexual misconduct with a minor; and (2) are required to register; may petition a court for an order that provides the persons are no longer required to register or update a registration and that requires information concerning the persons must be removed from the registry.

**Effective:** July 1, 2012.

**Dermody**

January 9, 2012, read first time and referred to Committee on Courts and Criminal Code.  
January 23, 2012, amended, reported — Do Pass.

HB 1204—LS 6731/DI 106+



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January 23, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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## HOUSE BILL No. 1204

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A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*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, 2012]: 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;

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- 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) Sexual misconduct by a service provider (IC 35-44-1-5).**  
 24 ~~(18)~~ **(19)** An attempt or conspiracy to commit a crime listed in  
 25 subdivisions (1) through ~~(17)~~: **(18)**.  
 26 ~~(19)~~ **(20)** A crime under the laws of another jurisdiction,  
 27 including a military court, that is substantially equivalent to any  
 28 of the offenses listed in subdivisions (1) through ~~(18)~~: **(19)**.  
 29 (b) The term includes:  
 30 (1) a person who is required to register as a sex offender in any  
 31 jurisdiction; and  
 32 (2) a child who has committed a delinquent act and who:  
 33 (A) is at least fourteen (14) years of age;  
 34 (B) is on probation, is on parole, is discharged from a facility  
 35 by the department of correction, is discharged from a secure  
 36 private facility (as defined in IC 31-9-2-115), or is discharged  
 37 from a juvenile detention facility as a result of an adjudication  
 38 as a delinquent child for an act that would be an offense  
 39 described in subsection (a) if committed by an adult; and  
 40 (C) is found by a court by clear and convincing evidence to be  
 41 likely to repeat an act that would be an offense described in  
 42 subsection (a) if committed by an adult.

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

5 SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.216-2007,  
 6 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2012]: Sec. 5. (a) Except as provided in section 22 of this  
 8 chapter, as used in this chapter, "sex or violent offender" means a  
 9 person convicted of any of the following offenses:

- 10 (1) Rape (IC 35-42-4-1).  
 11 (2) Criminal deviate conduct (IC 35-42-4-2).  
 12 (3) Child molesting (IC 35-42-4-3).  
 13 (4) Child exploitation (IC 35-42-4-4(b)).  
 14 (5) Vicarious sexual gratification (including performing sexual  
 15 conduct in the presence of a minor) (IC 35-42-4-5).  
 16 (6) Child solicitation (IC 35-42-4-6).  
 17 (7) Child seduction (IC 35-42-4-7).  
 18 (8) Sexual misconduct with a minor as a Class A, Class B, or  
 19 Class C felony (IC 35-42-4-9), unless:  
 20 (A) the person is convicted of sexual misconduct with a minor  
 21 as a Class C felony;  
 22 (B) the person is not more than:  
 23 (i) four (4) years older than the victim if the offense was  
 24 committed after June 30, 2007; or  
 25 (ii) five (5) years older than the victim if the offense was  
 26 committed before July 1, 2007; and  
 27 (C) the sentencing court finds that the person should not be  
 28 required to register as a sex offender.  
 29 (9) Incest (IC 35-46-1-3).  
 30 (10) Sexual battery (IC 35-42-4-8).  
 31 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen  
 32 (18) years of age, and the person who kidnapped the victim is not  
 33 the victim's parent or guardian.  
 34 (12) Criminal confinement (IC 35-42-3-3), if the victim is less  
 35 than eighteen (18) years of age, and the person who confined or  
 36 removed the victim is not the victim's parent or guardian.  
 37 (13) Possession of child pornography (IC 35-42-4-4(c)).  
 38 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.  
 39 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the  
 40 victim is less than eighteen (18) years of age.  
 41 (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).  
 42 (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less

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- 1 than eighteen (18) years of age.  
 2 (18) Murder (IC 35-42-1-1).  
 3 (19) Voluntary manslaughter (IC 35-42-1-3).  
 4 **(20) Sexual misconduct by a service provider (IC 35-44-1-5).**  
 5 ~~(20) (21)~~ An attempt or conspiracy to commit a crime listed in  
 6 subdivisions (1) through ~~(19)~~: **(20)**.  
 7 ~~(21) (22)~~ A crime under the laws of another jurisdiction,  
 8 including a military court, that is substantially equivalent to any  
 9 of the offenses listed in subdivisions (1) through ~~(20)~~: **(21)**.  
 10 (b) The term includes:  
 11 (1) a person who is required to register as a sex or violent  
 12 offender in any jurisdiction; and  
 13 (2) a child who has committed a delinquent act and who:  
 14 (A) is at least fourteen (14) years of age;  
 15 (B) is on probation, is on parole, is discharged from a facility  
 16 by the department of correction, is discharged from a secure  
 17 private facility (as defined in IC 31-9-2-115), or is discharged  
 18 from a juvenile detention facility as a result of an adjudication  
 19 as a delinquent child for an act that would be an offense  
 20 described in subsection (a) if committed by an adult; and  
 21 (C) is found by a court by clear and convincing evidence to be  
 22 likely to repeat an act that would be an offense described in  
 23 subsection (a) if committed by an adult.  
 24 (c) In making a determination under subsection (b)(2)(C), the court  
 25 shall consider expert testimony concerning whether a child is likely to  
 26 repeat an act that would be an offense described in subsection (a) if  
 27 committed by an adult.  
 28 SECTION 3. IC 11-8-8-22, AS AMENDED BY P.L.103-2010,  
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2012]: Sec. 22. (a) As used in this section, "offender" means  
 31 a sex offender (as defined in section 4.5 of this chapter), ~~and~~ a sex or  
 32 violent offender (as defined in section 5 of this chapter), ~~and a~~  
 33 **sexually violent predator (as defined in section 6 of this chapter).**  
 34 (b) Subsection (g) applies to an offender required to register under  
 35 this chapter if, due to a change in federal or state law after June 30,  
 36 2007, an individual who engaged in the same conduct as the offender:  
 37 (1) would not be required to register under this chapter; or  
 38 (2) would be required to register under this chapter but under less  
 39 restrictive conditions than the offender is required to meet.  
 40 (c) A person to whom this section applies may petition a court to:  
 41 (1) remove the person's designation as an offender; or  
 42 (2) require the person to register under less restrictive conditions.

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1 (d) A petition under this section shall be filed in the circuit or  
 2 superior court of the county in which the offender resides. If the  
 3 offender resides in more than one (1) county, the petition shall be filed  
 4 in the circuit or superior court of the county in which the offender  
 5 resides the greatest time. If the offender does not reside in Indiana, the  
 6 petition shall be filed in the circuit or superior court of the county  
 7 where the offender is employed the greatest time. If the offender does  
 8 not reside or work in Indiana, but is a student in Indiana, the petition  
 9 shall be filed in the circuit or superior court of the county where the  
 10 offender is a student. If the offender is not a student in Indiana and does  
 11 not reside or work in Indiana, the petition shall be filed in the county  
 12 where the offender was most recently convicted of a crime listed in  
 13 section 5 of this chapter.

14 (e) After receiving a petition under this section, the court may:

15 (1) summarily dismiss the petition; or

16 (2) give notice to:

17 (A) the department;

18 (B) the attorney general;

19 (C) the prosecuting attorney of:

20 (i) the county where the petition was filed;

21 (ii) the county where offender was most recently convicted  
 22 of an offense listed in section 5 of this chapter; and

23 (iii) the county where the offender resides; and

24 (D) the sheriff of the county where the offender resides;

25 and set the matter for hearing. The date set for a hearing must not be  
 26 less than sixty (60) days after the court gives notice under this  
 27 subsection.

28 (f) If a court sets a matter for a hearing under this section, the  
 29 prosecuting attorney of the county in which the action is pending shall  
 30 appear and respond, unless the prosecuting attorney requests the  
 31 attorney general to appear and respond and the attorney general agrees  
 32 to represent the interests of the state in the matter. If the attorney  
 33 general agrees to appear, the attorney general shall give notice to:

34 (A) the prosecuting attorney; and

35 (B) the court.

36 (g) A court may grant a petition under this section if, following a  
 37 hearing, the court makes the following findings:

38 (1) The law requiring the petitioner to register as an offender has  
 39 changed since the date on which the petitioner was initially  
 40 required to register.

41 (2) If the petitioner who was required to register as an offender  
 42 before the change in law engaged in the same conduct after the

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1 change in law occurred, the petitioner would:

2 (A) not be required to register as an offender; or

3 (B) be required to register as an offender, but under less  
4 restrictive conditions.

5 (3) If the petitioner seeks relief under this section because a  
6 change in law makes a previously unavailable defense available  
7 to the petitioner, that the petitioner has proved the defense.

8 The court has the discretion to deny a petition under this section, even  
9 if the court makes the findings under this subsection.

10 (h) The petitioner has the burden of proof in a hearing under this  
11 section.

12 (i) If the court grants a petition under this section, the court shall  
13 notify:

14 (1) the victim of the offense, if applicable;

15 (2) the department of correction; and

16 (3) the local law enforcement authority of every county in which  
17 the petitioner is currently required to register.

18 (j) An offender may base a petition filed under this section on a  
19 claim that the application or registration requirements constitute ex  
20 post facto punishment.

21 (k) A petition filed under this section must:

22 (1) be submitted under the penalties of perjury;

23 (2) list each of the offender's criminal convictions and state for  
24 each conviction:

25 (A) the date of the judgment of conviction;

26 (B) the court that entered the judgment of conviction;

27 (C) the crime that the offender pled guilty to or was convicted  
28 of; and

29 (D) whether the offender was convicted of the crime in a trial  
30 or pled guilty to the criminal charges; and

31 (3) list each jurisdiction in which the offender is required to  
32 register as a sex offender or a violent offender.

33 **(l) If a court grants a petition filed under this section, the**  
34 **offender is entitled only to the relief described in section 23 of this**  
35 **chapter.**

36 **(m)** The attorney general may initiate an appeal from any order  
37 granting an offender relief under this section.

38 SECTION 4. IC 11-8-8-23 IS ADDED TO THE INDIANA CODE  
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
40 1, 2012]: **Sec. 23. (a) As used in this section, "offender" has the**  
41 **meaning set forth in section 22(a) of this chapter.**

42 **(b) If a court grants an offender's petition filed under section 22**

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1 of this chapter, an offender's duty to register expires due to the  
 2 passage of time, or an offender's duty to register under section 7(a)  
 3 of this chapter has ended due to a change in the offender's place of  
 4 residence, employment, vocation, or educational enrollment:

5 (1) the offender is no longer:

6 (A) required to:

7 (i) register; or

8 (ii) update the offender's registration;

9 under sections 4, 7, 8, and 14 of this chapter;

10 (B) required to report to a local law enforcement authority  
 11 if the offender:

12 (i) changes the offender's residence address or the place  
 13 where the offender stays in Indiana;

14 (ii) changes the offender's place of employment, place of  
 15 vocation, or campus or location where the offender is  
 16 enrolled in school; or

17 (iii) changes or obtains a new electronic mail address,  
 18 instant messaging username, electronic chat room  
 19 username, or social networking web site username;

20 under section 11 of this chapter;

21 (C) required to:

22 (i) register with a local law enforcement authority if the  
 23 offender resides in a temporary residence; or

24 (ii) if the offender does not have a principal residence or  
 25 temporary residence, report to a local law enforcement  
 26 authority to report an address for the location where the  
 27 offender will stay during the time in which the offender  
 28 lacks a principal address or temporary residence;

29 under section 12 of this chapter;

30 (D) required to obtain and keep in the offender's  
 31 possession:

32 (i) a valid Indiana driver's license or a valid Indiana  
 33 identification card if the offender is a resident of  
 34 Indiana; or

35 (ii) if the offender is not a resident of Indiana, a valid  
 36 driver's license or a valid state issued identification card  
 37 issued by the state in which the offender resides;

38 under section 15 of this chapter;

39 (E) prohibited from petitioning for a change of name and  
 40 no longer required to register after a name change due to  
 41 marriage under section 16 of this chapter; and

42 (F) required to inform local law enforcement authorities

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- 1 when the offender will be absent from the offender's  
 2 principal residence for more than seventy-two (72) hours  
 3 under section 18 of this chapter; and  
 4 (2) the local law enforcement authority that has jurisdiction  
 5 over the area of the offender's principal address or location is  
 6 no longer required to:  
 7 (A) mail a form to the offender; and  
 8 (B) personally visit the offender;  
 9 to verify the offender's current residence under section 13 of  
 10 this chapter.  
 11 (c) Except as provided in subsections (d) and (e), an offender  
 12 described in subsection (b) is not entitled to have any information  
 13 changed or removed from the Indiana sex and violent offender  
 14 registry.  
 15 (d) An offender described in subsection (b) is entitled to have the  
 16 offender's address removed from the part of the Indiana sex and  
 17 violent offender registry that is available to the public. However,  
 18 the offender's address shall remain available to the department  
 19 and to law enforcement authorities.  
 20 (e) If:  
 21 (1) an offender is required to register under this chapter  
 22 because the offender was convicted of the offense of sexual  
 23 misconduct with a minor (IC 35-42-4-9);  
 24 (2) the court grants a petition under section 22(g) of this  
 25 chapter filed by the offender; and  
 26 (3) when the court grants the petition, the court finds that:  
 27 (A) the offender was not more than four (4) years older  
 28 than the victim at the time of the offense;  
 29 (B) the relationship between the offender and the victim  
 30 was a dating relationship or an ongoing personal  
 31 relationship, not including a family relationship, at the  
 32 time of the offense;  
 33 (C) the offense:  
 34 (i) was not committed by an offender who was at least  
 35 twenty-one (21) years of age at the time of the offense;  
 36 (ii) was not committed by using or threatening the use of  
 37 deadly force;  
 38 (iii) was not committed while armed with a deadly  
 39 weapon;  
 40 (iv) did not result in serious bodily injury;  
 41 (v) was not facilitated by furnishing the victim, without  
 42 the victim's knowledge, with a drug (as defined in

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1 IC 16-42-19-2(1)) or a controlled substance (as defined in  
 2 IC 35-48-1-9) or knowing that the victim was furnished  
 3 with the drug or controlled substance without the  
 4 victim's knowledge; and  
 5 (vi) was not committed by an offender who had a  
 6 position of authority or substantial influence over the  
 7 victim at the time of the offense; and  
 8 (D) the offender has not committed another sex offense (as  
 9 defined in section 5.2 of this chapter) (including a  
 10 delinquent act that would be a sex offense if committed by  
 11 an adult) against any other person;

12 the court shall order that the offender is no longer required to  
 13 register or update the offender's registration under this chapter as  
 14 provided in subsection (b), notwithstanding sections 4.5(a)(8) and  
 15 5(a)(8) of this chapter, and the court shall order that all  
 16 information concerning the offender shall be removed from the  
 17 Indiana sex and violent offender registry.

18 (f) If an offender is no longer required to update the offender's  
 19 registration under this chapter, any information concerning the  
 20 offender that remains available for public inspection on the  
 21 Indiana sex and violent offender registry shall prominently  
 22 display:

- 23 (1) the last date the information was updated; and
- 24 (2) if the information includes a photograph of the offender:
  - 25 (A) the date the photograph was made available for public
  - 26 inspection; and
  - 27 (B) the age of the offender on the date the photograph was
  - 28 taken.

29 SECTION 5. IC 35-38-8-1, AS ADDED BY P.L.194-2011,  
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2012]: Sec. 1. This chapter does not apply to a sex or violent  
 32 offender, **including a sex or violent offender who is no longer**  
 33 **required to register**, unless the offender's status as a sex or violent  
 34 offender is solely due to the offender's conviction for sexual  
 35 misconduct with a minor (IC 35-42-4-9) and the offender proves that  
 36 the defense described in IC 35-42-4-9(e) applies to the offender.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1204, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 11-8-8-4.5, AS ADDED BY P.L.216-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4.5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), unless:
  - (A) the person is convicted of sexual misconduct with a minor as a Class C felony;
  - (B) the person is not more than:
    - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
    - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
  - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (IC 35-42-4-4(c)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.

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(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).

(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.

**(18) Sexual misconduct by a service provider (IC 35-44-1-5).**

~~(18)~~ **(19)** An attempt or conspiracy to commit a crime listed in subdivisions (1) through ~~(17)~~: **(18)**.

~~(19)~~ **(20)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(18)~~: **(19)**.

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

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

SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.216-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

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(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), unless:

(A) the person is convicted of sexual misconduct with a minor as a Class C felony;

(B) the person is not more than:

(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or

(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (IC 35-42-4-4(c)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.

(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).

(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.

(18) Murder (IC 35-42-1-1).

(19) Voluntary manslaughter (IC 35-42-1-3).

**(20) Sexual misconduct by a service provider (IC 35-44-1-5).**

~~(20)~~ **(21)** An attempt or conspiracy to commit a crime listed in subdivisions (1) through ~~(19)~~: **(20)**.

~~(21)~~ **(22)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(20)~~: **(21)**.

(b) The term includes:

(1) a person who is required to register as a sex or violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged

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from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

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

Page 3, delete lines 40 through 42, begin a new paragraph and insert:

**"(b) If a court grants an offender's petition filed under section 22 of this chapter, an offender's duty to register expires due to the passage of time, or an offender's duty to register under section 7(a) of this chapter has ended due to a change in the offender's place of residence, employment, vocation, or educational enrollment:**

**(1) the offender is no longer:**

**(A) required to:**

**(i) register; or**

**(ii) update the offender's registration;**

**under sections 4, 7, 8, and 14 of this chapter;**

**(B) required to report to a local law enforcement authority if the offender:**

**(i) changes the offender's residence address or the place where the offender stays in Indiana;**

**(ii) changes the offender's place of employment, place of vocation, or campus or location where the offender is enrolled in school; or**

**(iii) changes or obtains a new electronic mail address, instant messaging username, electronic chat room username, or social networking web site username;**

**under section 11 of this chapter;**

**(C) required to:**

**(i) register with a local law enforcement authority if the offender resides in a temporary residence; or**

**(ii) if the offender does not have a principal residence or temporary residence, report to a local law enforcement authority to report an address for the location where the offender will stay during the time in which the offender lacks a principal address or temporary residence;**

**under section 12 of this chapter;**

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**(D) required to obtain and keep in the offender's possession:**

**(i) a valid Indiana driver's license or a valid Indiana identification card if the offender is a resident of Indiana; or**

**(ii) if the offender is not a resident of Indiana, a valid driver's license or a valid state issued identification card issued by the state in which the offender resides;**

**under section 15 of this chapter;**

**(E) prohibited from petitioning for a change of name and no longer required to register after a name change due to marriage under section 16 of this chapter; and**

**(F) required to inform local law enforcement authorities when the offender will be absent from the offender's principal residence for more than seventy-two (72) hours under section 18 of this chapter; and**

**(2) the local law enforcement authority that has jurisdiction over the area of the offender's principal address or location is no longer required to:**

**(A) mail a form to the offender; and**

**(B) personally visit the offender;**

**to verify the offender's current residence under section 13 of this chapter."**

Page 4, delete lines 1 through 7.

Page 4, line 8, delete "subsection (d)," and insert "**subsections (d) and (e),**".

Page 4, line 10, after "sex" insert "**and violent**".

Page 4, line 12, after "sex" insert "**and violent**".

Page 4, delete lines line 16 through 19, begin a new paragraph and insert:

**"(e) If:**

**(1) an offender is required to register under this chapter because the offender was convicted of the offense of sexual misconduct with a minor (IC 35-42-4-9);**

**(2) the court grants a petition under section 22(g) of this chapter filed by the offender; and**

**(3) when the court grants the petition, the court finds that:**

**(A) the offender was not more than four (4) years older than the victim at the time of the offense;**

**(B) the relationship between the offender and the victim was a dating relationship or an ongoing personal relationship, not including a family relationship, at the**

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time of the offense;

**(C) the offense:**

- (i) was not committed by an offender who was at least twenty-one (21) years of age at the time of the offense;**
- (ii) was not committed by using or threatening the use of deadly force;**
- (iii) was not committed while armed with a deadly weapon;**
- (iv) did not result in serious bodily injury;**
- (v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and**
- (vi) was not committed by an offender who had a position of authority or substantial influence over the victim at the time of the offense; and**

**(D) the offender has not committed another sex offense (as defined in section 5.2 of this chapter) (including a delinquent act that would be a sex offense if committed by an adult) against any other person;**

the court shall order that the offender is no longer required to register or update the offender's registration under this chapter as provided in subsection (b), notwithstanding sections 4.5(a)(8) and 5(a)(8) of this chapter, and the court shall order that all information concerning the offender shall be removed from the Indiana sex and violent offender registry.

**(f) If an offender is no longer required to update the offender's registration under this chapter, any information concerning the offender that remains available for public inspection on the Indiana sex and violent offender registry shall prominently display:**

- (1) the last date the information was updated; and**
- (2) if the information includes a photograph of the offender:**
  - (A) the date the photograph was made available for public inspection; and**

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**(B) the age of the offender on the date the photograph was taken."**

Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to HB 1204 as introduced.)

STEUERWALD, Chair

Committee Vote: yeas 9, nays 0.

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