January 23, 2012

HOUSE BILL No. 1365

DIGEST OF HB 1365 (Updated January 20, 2012 2:38 pm - DI 69)

Citations Affected: IC 31-30; IC 31-37.

Synopsis: Dual juvenile and criminal jurisdiction. Allows a court with criminal jurisdiction to exercise dual jurisdiction of both the criminal laws and juvenile laws concerning a juvenile offender or delinquent offender if the offender: (1) is less than 17 years of age and waived to the court because the offender committed an act that would be a felony if committed by an adult; and (2) is convicted of committing the felony or enters a plea of guilty to committing the felony. Requires a court that exercises dual jurisdiction concerning a juvenile offender or delinquent offender to: (1) enter a juvenile dispositional decree with respect to the offender; (2) impose an appropriate criminal sentence on the offender; and (3) provide that the criminal sentence is suspended and the successful completion of the juvenile dispositional decree is a condition of the suspended criminal sentence. Provides that when a juvenile offender or delinquent offender who has received a suspended criminal sentence becomes 18 years of age, the court must: (1) hold an evaluation hearing concerning the offender before the offender becomes 21 years of age; and (2) based upon the findings of the hearing, discharge the juvenile offender or delinquent offender if the court finds that the objectives of the dispositional decree have been met, order execution of all or part of the juvenile offender's or delinquent offender's suspended criminal sentence in an adult facility, or place the offender in home detention, in a community corrections program, on probation, or in any other appropriate alternative sentencing program.

Effective: July 1, 2012.

McNamara, Steuerwald, Dermody

January 11, 2012, read first time and referred to Committee on Courts and Criminal Code.
January 23, 2012, reported — Do Pass.

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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.

C o p y

HOUSE BILL No. 1365

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-30-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 4. Dual Juvenile Jurisdiction and Criminal Jurisdiction

Sec. 1. This chapter applies to a:

(1) juvenile offender; or

(2) delinquent offender;

who is charged as an adult offender.

Sec. 2. (a) If:

(1) a juvenile offender or delinquent offender is:

(A) less than seventeen (17) years of age; and

(B) waived to a court with criminal jurisdiction under IC 31-30-3 because the offender committed an act that would be a felony if committed by an adult; and

(2) the offender:

(A) is convicted of committing the felony; or

(B) enters a plea of guilty to committing the felony;

the court may exercise dual jurisdiction of both the criminal laws and juvenile laws concerning the offender as provided in this chapter.

(b) If a court exercises dual jurisdiction concerning a juvenile offender or delinquent offender under subsection (a), the court shall:

(1) enter a juvenile dispositional decree with respect to the offender under IC 31-37-19;

(2) impose an appropriate criminal sentence on the offender under IC 35-50-2; and

(3) provide that:

(A) the criminal sentence is suspended, notwithstanding IC 35-50-2-2 and IC 35-50-2-2.1; and

(B) the successful completion of the juvenile dispositional decree is a condition of the suspended criminal sentence.

(c) Subject to sections 4 and 6 of this chapter, the court may order a juvenile offender or delinquent offender described in subsection (b) into the custody of the department of correction to be placed in a juvenile facility with the division of youth services if the department of correction:

(1) determines that there is space available for the offender in the facility; and

(2) agrees to place the offender in the facility.

Sec. 3. (a) If there is probable cause to believe that a juvenile offender or delinquent offender described under section 2(b) of this chapter has:

(1) violated a condition of the offender's suspended criminal sentence; or

(2) committed a new offense;

the court shall conduct a hearing to determine if the offender has committed the violation or the new offense unless the offender waives the hearing.

(b) If the court finds after a hearing conducted under subsection (a) that the juvenile offender or delinquent offender has violated a condition of the offender's suspended criminal sentence or committed a new offense or if the offender waives the hearing, the court may:

(1) continue or revoke the offender's juvenile dispositional decree;

(2) order execution of all or part of the offender's suspended criminal sentence; or

(3) enter any other order the court considers appropriate.

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Sec. 4. (a) The department of correction may reclassify a juvenile offender or delinquent offender and transfer the offender to an appropriate adult facility if:

(1) the offender has been:

(A) placed in the custody of the department of correction; and

(B) placed in a juvenile facility with the division of youth services of the department of correction;

under section 2(c) of this chapter; and

(2) the department of correction determines the offender is beyond the scope of the department's juvenile services.

(b) If the department of correction reclassifies and transfers a juvenile offender or delinquent offender under this section, the department shall notify the court of the circumstances of the reclassification and transfer.

Sec. 5. (a) When a juvenile offender or delinquent offender who has received a suspended criminal sentence under section 2(b) of this chapter becomes eighteen (18) years of age, the court shall hold an evaluation hearing concerning the offender before the offender becomes twenty-one (21) years of age.

(b) Based upon the findings of a hearing conducted under subsection (a), the court shall:

(1) discharge the juvenile offender or delinquent offender if the court finds that the objectives of the dispositional decree have been met;

(2) order execution of all or part of the juvenile offender's or delinquent offender's suspended criminal sentence in an adult facility; or

(3) place the juvenile offender or delinquent offender:

(A) in home detention under IC 35-38-2.5;

(B) in a community corrections program under IC 35-38-2.6;

(C) on probation under IC 35-50-7; or

(D) in any other appropriate alternative sentencing program.

Sec. 6. (a) At any time before a juvenile offender or delinquent offender becomes twenty-one (21) years of age, the department of correction may transfer the offender to an adult facility if:

(1) the offender has been:

(A) placed in the custody of the department of correction; and

(B) placed in a juvenile facility with the division of youth

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services of the department of correction;

under section 2(c) of this chapter; and

(2) the department of correction believes the offender is a safety or security risk to:

(A) the other offenders or the staff at the facility; or

(B) the public.

(b) If the department of correction transfers a juvenile offender or delinquent offender to an adult facility under this section, the department shall notify the court of the circumstances of the transfer.

Sec. 7. If the suspension of a criminal sentence is revoked under this chapter, all time served by the juvenile offender or delinquent offender under a juvenile disposition decree shall be credited toward any criminal sentence imposed on the offender.

SECTION 2. IC 31-37-19-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 0.5. A reference in this chapter to a juvenile court includes a court with criminal jurisdiction that exercises dual jurisdiction with respect to a juvenile offender or delinquent offender under IC 31-30-4.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1365, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEUERWALD, Chair

Committee Vote: yeas 9, nays 0.

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