Adopted	Rejected

COMMITTEE REPORT

YES:	9
NO:	0

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.

(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).

(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 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;

(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 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

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

Renumber all SECTIONS consecutively.

(Reference is to HB 1204 as introduced.)

and when so amended that said bill do pass.

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Representative Steuerwald