
HOUSE BILL No. 1365

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-30-4; IC 31-37-19-0.5.

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.

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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. 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:

- 1 SECTION 1. IC 31-30-4 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2012]:
- 4 **Chapter 4. Dual Juvenile Jurisdiction and Criminal Jurisdiction**
- 5 **Sec. 1. This chapter applies to a:**
- 6 (1) **juvenile offender; or**
- 7 (2) **delinquent offender;**
- 8 **who is charged as an adult offender.**
- 9 **Sec. 2. (a) If:**
- 10 (1) **a juvenile offender or delinquent offender is:**
- 11 (A) **less than seventeen (17) years of age; and**
- 12 (B) **waived to a court with criminal jurisdiction under**
- 13 **IC 31-30-3 because the offender committed an act that**
- 14 **would be a felony if committed by an adult; and**
- 15 (2) **the offender:**
- 16 (A) **is convicted of committing the felony; or**
- 17 (B) **enters a plea of guilty to committing the felony;**



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

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

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

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

11 (3) provide that:

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

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

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

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

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

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

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

29 (2) committed a new offense;

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

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

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

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

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

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

4 **(1) the offender has been:**

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

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

9 **under section 2(c) of this chapter; and**

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

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

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

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

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

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

29 **(3) place the juvenile offender or delinquent offender:**

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

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

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

34 **(D) in any other appropriate alternative sentencing**
 35 **program.**

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

39 **(1) the offender has been:**

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

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

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1 **services of the department of correction;**
 2 **under section 2(c) of this chapter; and**
 3 **(2) the department of correction believes the offender is a**
 4 **safety or security risk to:**
 5 **(A) the other offenders or the staff at the facility; or**
 6 **(B) the public.**
 7 **(b) If the department of correction transfers a juvenile offender**
 8 **or delinquent offender to an adult facility under this section, the**
 9 **department shall notify the court of the circumstances of the**
 10 **transfer.**
 11 **Sec. 7. If the suspension of a criminal sentence is revoked under**
 12 **this chapter, all time served by the juvenile offender or delinquent**
 13 **offender under a juvenile disposition decree shall be credited**
 14 **toward any criminal sentence imposed on the offender.**
 15 **SECTION 2. IC 31-37-19-0.5 IS ADDED TO THE INDIANA**
 16 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 17 **[EFFECTIVE JULY 1, 2012]: Sec. 0.5. A reference in this chapter to**
 18 **a juvenile court includes a court with criminal jurisdiction that**
 19 **exercises dual jurisdiction with respect to a juvenile offender or**
 20 **delinquent offender under IC 31-30-4.**

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