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Authors Added
January 6, 2012

SENATE BILL No. 4

DIGEST OF SB 4 (Updated January 5, 2012 10:11 am - DI 106)

Citations Affected: IC 5-14; IC 11-8; IC 35-42.

Synopsis: Human trafficking. Provides that recruiting, harboring, or transporting another person to participate in sexual conduct by force, threat of force, or fraud constitutes human trafficking. Provides that a person who recruits, harbors, or transports a child less than 16 years of age with the intent of engaging the child in forced labor, involuntary servitude, prostitution, or sexual conduct commits promotion of human trafficking of a minor, a Class B felony. Prohibits a person at least 18 years of age from selling or transferring custody of a child less than 16 years of age for the purpose of prostitution or participation in sexual conduct. Provides that the name of a victim of human trafficking is confidential for purposes of the public records law. (The introduced version of this bill was prepared by the Criminal Code Evaluation Commission.)

Effective: Upon passage.

Head, Hume, Walker, Tallian, Simpson, Banks, Holdman, Miller, Eckerty, Delph, Tomes, Zakas, Landske, Glick, Waterman, Young R Michael, Mrvan

January 4, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
January 5, 2012, amended, reported favorably — Do Pass.

C o p y

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January 6, 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

SENATE BILL No. 4

A BILL FOR 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 5-14-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a person is arrested or summoned for an offense, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning any charges on which the arrest or summons is based.

(3) Information relating to the circumstances of the arrest or the issuance of the summons, such as the:

(A) time and location of the arrest or the issuance of the summons;

(B) investigating or arresting officer (other than an undercover officer or agent); and

(C) investigating or arresting law enforcement agency.

(b) If a person is received in a jail or lock-up, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning the reason for the person being placed in the jail or lock-up, including the name of the person on whose order the person is being held.

(3) The time and date that the person was received and the time and date of the person's discharge or transfer.

(4) The amount of the person's bail or bond, if it has been fixed.

(c) An agency shall maintain a daily log or record that lists suspected crimes, accidents, or complaints, and the following information shall be made available for inspection and copying:

(1) The time, substance, and location of all complaints or requests for assistance received by the agency.

(2) The time and nature of the agency's response to all complaints or requests for assistance.

(3) If the incident involves an alleged crime or infraction:

(A) the time, date, and location of occurrence;

(B) the name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4 **or IC 35-42-3.5;**

(C) the factual circumstances surrounding the incident; and

(D) a general description of any injuries, property, or weapons involved.

The information required in this subsection shall be made available for inspection and copying in compliance with this chapter. The record containing the information must be created not later than twenty-four (24) hours after the suspected crime, accident, or complaint has been reported to the agency.

(d) This chapter does not affect IC 5-2-4, IC 10-13-3, or IC 5-11-1-9.

SECTION 2. IC 11-8-8-4.5, AS ADDED BY P.L.216-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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).

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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)).~~ **(IC 35-42-3.5-1(c)).**

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

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

(19) 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).

(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

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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 3. IC 11-8-8-5, AS AMENDED BY P.L.216-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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)).

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(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)).~~ **(IC 35-42-3.5-1(c)).**
(17) Human trafficking ~~(IC 35-42-3.5-1(c)(3))~~ **(IC 35-42-3.5-1(d)(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) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (19).
(21) 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).

(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.

SECTION 4. IC 35-42-3.5-1, AS ADDED BY P.L.173-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who, **by force, threat of force, or fraud,** knowingly or intentionally recruits, harbors, or transports another person: ~~by force, threat of force, or fraud:~~
(1) to engage the other person in:
(A) forced labor; or
(B) involuntary servitude; or
(2) to force the other person into:

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(A) marriage; ~~or~~
(B) prostitution; **or**
(C) participating in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking, a Class B felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than sixteen (16) years of age with the intent of:

(1) engaging the child in:
(A) forced labor; or
(B) involuntary servitude; or

(2) inducing or causing the child to:
(A) engage in prostitution; or
(B) participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor, a Class B felony. It is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or to participate in sexual conduct.

~~(b) A parent, guardian, or custodian of~~ **(c) A person who is at least** ~~a child less than~~ eighteen (18) years of age who knowingly or intentionally sells or transfers custody of ~~the~~ **a** child **less than sixteen (16) years of age** for the purpose of prostitution **or participating in sexual conduct (as defined by IC 35-42-4-4)** commits sexual trafficking of a minor, a Class A felony.

~~(c)~~ **(d)** A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

(1) forced labor;
(2) involuntary servitude; or
(3) prostitution;

commits human trafficking, a Class C felony.

SECTION 5. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 4, has had the same under consideration and begs leave to report the same back to the Senate 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 5-14-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a person is arrested or summoned for an offense, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning any charges on which the arrest or summons is based.

(3) Information relating to the circumstances of the arrest or the issuance of the summons, such as the:

(A) time and location of the arrest or the issuance of the summons;

(B) investigating or arresting officer (other than an undercover officer or agent); and

(C) investigating or arresting law enforcement agency.

(b) If a person is received in a jail or lock-up, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning the reason for the person being placed in the jail or lock-up, including the name of the person on whose order the person is being held.

(3) The time and date that the person was received and the time and date of the person's discharge or transfer.

(4) The amount of the person's bail or bond, if it has been fixed.

(c) An agency shall maintain a daily log or record that lists suspected crimes, accidents, or complaints, and the following information shall be made available for inspection and copying:

(1) The time, substance, and location of all complaints or requests for assistance received by the agency.

(2) The time and nature of the agency's response to all complaints or requests for assistance.

(3) If the incident involves an alleged crime or infraction:

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(A) the time, date, and location of occurrence;
(B) the name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4 **or IC 35-42-3.5;**
(C) the factual circumstances surrounding the incident; and
(D) a general description of any injuries, property, or weapons involved.

The information required in this subsection shall be made available for inspection and copying in compliance with this chapter. The record containing the information must be created not later than twenty-four (24) hours after the suspected crime, accident, or complaint has been reported to the agency.

(d) This chapter does not affect IC 5-2-4, IC 10-13-3, or IC 5-11-1-9.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 4 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 9, Nays 0.

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