

# COMMITTEE REPORT

---

## MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1365, 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:

- 1           Page 1, line 4, delete "Dual Juvenile Jurisdiction and Criminal  
2           Jurisdiction" and insert "**Sentencing Alternatives for Certain**  
3           **Offenders Under Criminal Court Jurisdiction**".
- 4           Page 1, delete lines 6 through 12, begin a new line block indented  
5           and insert:
- 6           **"(1) An offender who:**  
7                 **(A) is less than eighteen (18) years of age;**  
8                 **(B) has been waived to a court with criminal jurisdiction**  
9                 **under IC 31-30-3; and**  
10                **(C) is charged as an adult offender.**
- 11           **(2) An offender who:**  
12                **(A) is less than eighteen (18) years of age; and**  
13                **(B) does not come under the jurisdiction of a juvenile court**  
14                **because the offender is charged with an offense listed in**  
15                **IC 31-30-1-4."**
- 16           Page 1, line 14, delete "a juvenile" and insert "**an**".
- 17           Page 1, line 14, delete "or delinquent offender".
- 18           Page 2, line 4, delete "a directly committed offender:" and insert "**an**  
19           **offender is:**".
- 20           Page 2, line 5, delete "is".
- 21           Page 2, line 6, delete "allegedly committed" and insert "**charged**"

1 **with".**

2 Page 2, line 8, delete "is".

3 Page 2, line 11, delete "exercise dual jurisdiction of both the  
4 criminal laws" and insert ", **upon its own motion, a motion of the  
5 prosecuting attorney, or a motion of the offender's legal  
6 representative, impose a sentence upon the conviction of the  
7 offender under this chapter. However, the court may not impose a  
8 sentence on an offender until the probation department of the  
9 court has conducted a presentence investigation concerning the  
10 offender and reported its findings to the court or the department  
11 of correction has conducted a diagnostic evaluation of the offender  
12 and reported its findings to the court.**

13 **(b) If a court elects to impose a sentence upon conviction of an  
14 offender under subsection (a) and, before the offender is sentenced,  
15 the department of correction determines that there is space  
16 available for the offender in a juvenile facility of the division of  
17 youth services of the department and the department agrees to  
18 place the offender in the juvenile facility, the sentencing court may:**

19 **(1) impose an appropriate criminal sentence on the offender  
20 under IC 35-50-2;**

21 **(2) suspend the criminal sentence imposed, notwithstanding  
22 IC 35-50-2-2 and IC 35-50-2-2.1;**

23 **(3) order the offender to be placed into the custody of the  
24 department of correction to be placed in the juvenile facility  
25 of the division of youth services; and**

26 **(4) provide that the successful completion of the placement of  
27 the offender in the juvenile facility is a condition of the  
28 suspended criminal sentence."**

29 Page 2, delete lines 12 through 33.

30 Page 2, line 34, delete "a juvenile".

31 Page 2, line 35, delete "offender, delinquent offender, or directly  
32 committed" and insert "**an**".

33 Page 2, line 40, after "a" insert "**review**".

34 Page 3, line 1, after "finds" insert "**by a preponderance of the  
35 evidence**".

36 Page 3, line 1, after "a" insert "**review**".

37 Page 3, line 2, delete "juvenile offender, delinquent offender, or  
38 directly".

39 Page 3, line 3, delete "committed".

40 Page 3, delete lines 6 through 10, begin a new line block indented  
41 and insert:

42 **"(1) continue the offender's placement in the juvenile facility**

- 1           **under section 2(b) of this chapter;**  
 2           **(2) order execution of all or part of the offender's previously**  
 3           **suspended criminal sentence in an adult facility recommended**  
 4           **by the department of correction; or**  
 5           **(3) make any other modifications to the sentence imposed on**  
 6           **the offender under section 2(b) of this chapter the court**  
 7           **considers appropriate."**
- 8           Page 3, line 11, delete "a" and insert "**an offender placed in a**  
 9           **juvenile facility under section 2(b) of this chapter"**.
- 10          Page 3, delete line 12.
- 11          Page 3, line 13, before "and" delete "offender".
- 12          Page 3, line 14, delete ":" and insert "**the department determines**  
 13          **the offender is no longer amenable to treatment within any juvenile**  
 14          **facility of the division of youth services."**
- 15          Page 3, delete lines 15 through 22.
- 16          Page 3, line 23, delete "a" and insert "**an**".
- 17          Page 3, delete line 24.
- 18          Page 3, line 25, before "court" insert "**sentencing**".
- 19          Page 3, delete lines 27 through 42, begin new paragraph and insert:  
 20          "**Sec. 5. (a) At the request of a sentencing court, the department**  
 21          **of correction shall provide a progress report to the sentencing**  
 22          **court concerning an offender sentenced and placed in a juvenile**  
 23          **facility under section 2(b) of this chapter. When the offender**  
 24          **becomes eighteen (18) years of age:**
- 25                 **(1) the department shall notify the sentencing court; and**  
 26                 **(2) the sentencing court shall hold a review hearing**  
 27                 **concerning the offender before the offender becomes nineteen**  
 28                 **(19) years of age.**
- 29                 **(b) After a hearing conducted under subsection (a), the**  
 30          **sentencing court may:**
- 31                 **(1) discharge the offender if the sentencing court finds that**  
 32                 **the objectives of the sentence imposed on the offender have**  
 33                 **been met;**  
 34                 **(2) order execution of all or part of the offender's suspended**  
 35                 **criminal sentence in an adult facility of the department of**  
 36                 **correction; or**  
 37                 **(3) place the offender:**
- 38                         **(A) in home detention under IC 35-38-2.5;**  
 39                         **(B) in a community corrections program under**  
 40                         **IC 35-38-2.6;**  
 41                         **(C) on probation under IC 35-50-7; or**  
 42                         **(D) in any other appropriate alternative sentencing**

- 1                    **program.**
- 2                    **Sec. 6. (a) At any time before an offender placed in a juvenile**
- 3                    **facility under section 2(b) of this chapter becomes twenty-one (21)**
- 4                    **years of age, the department of correction may transfer the**
- 5                    **offender to an adult facility if the department of correction believes**
- 6                    **the offender is a safety or security risk to:**
- 7                    **(1) the other offenders or the staff at the juvenile facility; or**
- 8                    **(2) the public.**
- 9                    **(b) If the department of correction transfers an offender to an**
- 10                   **adult facility under this section, the department shall notify the**
- 11                   **sentencing court of the circumstances of the transfer.**
- 12                   **Sec. 7. If the suspension of a criminal sentence is revoked under**
- 13                   **this chapter, all time served by an offender in a juvenile facility of**
- 14                   **the division of youth services of the department of correction shall**
- 15                   **be credited toward any criminal sentence imposed on the offender**
- 16                   **under this chapter."**
- 17                   Delete page 4.  
                      (Reference is to HB 1365 as reprinted January 27, 2012.)

**and when so amended that said bill do pass .**

Committee Vote: Yeas 8, Nays 1.

---

**Senator Bray, Chairperson**