

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1080, 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 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 11-8-8-4.5, AS ADDED BY P.L.216-2007,
- 3 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2012]: Sec. 4.5. (a) Except as provided in section 22 of this
- 5 chapter, as used in this chapter, "sex offender" means a person
- 6 convicted of any of the following offenses:
- 7 (1) Rape (IC 35-42-4-1).
- 8 (2) Criminal deviate conduct (IC 35-42-4-2).
- 9 (3) Child molesting (IC 35-42-4-3).
- 10 (4) Child exploitation (IC 35-42-4-4(b)).
- 11 (5) Vicarious sexual gratification (including performing sexual
- 12 conduct in the presence of a minor) (IC 35-42-4-5).
- 13 (6) Child solicitation (IC 35-42-4-6).
- 14 (7) Child seduction (IC 35-42-4-7).
- 15 (8) Sexual misconduct with a minor as a Class A, Class B, or
- 16 Class C felony (IC 35-42-4-9), unless:
- 17 (A) the person is convicted of sexual misconduct with a minor
- 18 as a Class C felony;
- 19 (B) the person is not more than:
- 20 (i) four (4) years older than the victim if the offense was
- 21 committed after June 30, 2007; or

- 1 (ii) five (5) years older than the victim if the offense was
 2 committed before July 1, 2007; and
 3 (C) the sentencing court finds that the person should not be
 4 required to register as a sex offender.
- 5 (9) Incest (IC 35-46-1-3).
 6 (10) Sexual battery (IC 35-42-4-8).
 7 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 8 (18) years of age, and the person who kidnapped the victim is not
 9 the victim's parent or guardian.
 10 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 11 than eighteen (18) years of age, and the person who confined or
 12 removed the victim is not the victim's parent or guardian.
 13 (13) Possession of child pornography (IC 35-42-4-4(c)).
 14 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
 15 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
 16 victim is less than eighteen (18) years of age.
 17 (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).
 18 (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less
 19 than eighteen (18) years of age.
 20 **(18) Sexual misconduct by a service provider (IC 35-44-1-5).**
 21 ~~(18)~~ **(19)** An attempt or conspiracy to commit a crime listed in
 22 subdivisions (1) through ~~(17)~~: **(18)**.
 23 ~~(19)~~ **(20)** A crime under the laws of another jurisdiction,
 24 including a military court, that is substantially equivalent to any
 25 of the offenses listed in subdivisions (1) through ~~(18)~~: **(19)**.
 26 (b) The term includes:
 27 (1) a person who is required to register as a sex offender in any
 28 jurisdiction; and
 29 (2) a child who has committed a delinquent act and who:
 30 (A) is at least fourteen (14) years of age;
 31 (B) is on probation, is on parole, is discharged from a facility
 32 by the department of correction, is discharged from a secure
 33 private facility (as defined in IC 31-9-2-115), or is discharged
 34 from a juvenile detention facility as a result of an adjudication
 35 as a delinquent child for an act that would be an offense
 36 described in subsection (a) if committed by an adult; and
 37 (C) is found by a court by clear and convincing evidence to be
 38 likely to repeat an act that would be an offense described in
 39 subsection (a) if committed by an adult.
 40 (c) In making a determination under subsection (b)(2)(C), the court
 41 shall consider expert testimony concerning whether a child is likely to
 42 repeat an act that would be an offense described in subsection (a) if

1 committed by an adult.

2 SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.216-2007,
3 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 5. (a) Except as provided in section 22 of this
5 chapter, as used in this chapter, "sex or violent offender" means a
6 person convicted of any of the following offenses:

- 7 (1) Rape (IC 35-42-4-1).
- 8 (2) Criminal deviate conduct (IC 35-42-4-2).
- 9 (3) Child molesting (IC 35-42-4-3).
- 10 (4) Child exploitation (IC 35-42-4-4(b)).
- 11 (5) Vicarious sexual gratification (including performing sexual
12 conduct in the presence of a minor) (IC 35-42-4-5).
- 13 (6) Child solicitation (IC 35-42-4-6).
- 14 (7) Child seduction (IC 35-42-4-7).
- 15 (8) Sexual misconduct with a minor as a Class A, Class B, or
16 Class C felony (IC 35-42-4-9), unless:
 - 17 (A) the person is convicted of sexual misconduct with a minor
18 as a Class C felony;
 - 19 (B) the person is not more than:
 - 20 (i) four (4) years older than the victim if the offense was
21 committed after June 30, 2007; or
 - 22 (ii) five (5) years older than the victim if the offense was
23 committed before July 1, 2007; and
 - 24 (C) the sentencing court finds that the person should not be
25 required to register as a sex offender.
- 26 (9) Incest (IC 35-46-1-3).
- 27 (10) Sexual battery (IC 35-42-4-8).
- 28 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
29 (18) years of age, and the person who kidnapped the victim is not
30 the victim's parent or guardian.
- 31 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
32 than eighteen (18) years of age, and the person who confined or
33 removed the victim is not the victim's parent or guardian.
- 34 (13) Possession of child pornography (IC 35-42-4-4(c)).
- 35 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
- 36 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
37 victim is less than eighteen (18) years of age.
- 38 (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).
- 39 (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less
40 than eighteen (18) years of age.
- 41 (18) Murder (IC 35-42-1-1).
- 42 (19) Voluntary manslaughter (IC 35-42-1-3).

- 1 **(20) Sexual misconduct by a service provider (IC 35-44-1-5).**
 2 ~~(20)~~ **(21)** An attempt or conspiracy to commit a crime listed in
 3 subdivisions (1) through ~~(19)~~: **(20)**.
 4 ~~(21)~~ **(22)** A crime under the laws of another jurisdiction,
 5 including a military court, that is substantially equivalent to any
 6 of the offenses listed in subdivisions (1) through ~~(20)~~: **(21)**.
- 7 (b) The term includes:
- 8 (1) a person who is required to register as a sex or violent
 9 offender in any jurisdiction; and
- 10 (2) a child who has committed a delinquent act and who:
- 11 (A) is at least fourteen (14) years of age;
- 12 (B) is on probation, is on parole, is discharged from a facility
 13 by the department of correction, is discharged from a secure
 14 private facility (as defined in IC 31-9-2-115), or is discharged
 15 from a juvenile detention facility as a result of an adjudication
 16 as a delinquent child for an act that would be an offense
 17 described in subsection (a) if committed by an adult; and
- 18 (C) is found by a court by clear and convincing evidence to be
 19 likely to repeat an act that would be an offense described in
 20 subsection (a) if committed by an adult.
- 21 (c) In making a determination under subsection (b)(2)(C), the court
 22 shall consider expert testimony concerning whether a child is likely to
 23 repeat an act that would be an offense described in subsection (a) if
 24 committed by an adult.
- 25 SECTION 3. [EFFECTIVE JULY 1, 2012] **(a) The general**
 26 **assembly urges the legislative council to study, during the 2012**
 27 **legislative interim, the topic of sexual battery.**
- 28 **(b) If the topic of sexual battery is studied under subsection (a),**
 29 **the study committee to which the topic is assigned shall consider**
 30 **whether the touching of a person who is unaware that the touching**
 31 **is occurring should be classified as sexual battery, and, if so, under**
 32 **which circumstances.**
- 33 **(c) If the topic of sexual battery is studied under subsection (a),**
 34 **the study committee to which the topic is assigned shall issue a final**
 35 **report to the legislative council containing the study committee's**

- 1 **findings and recommendations, including any recommended**
- 2 **legislation concerning the topic, not later than November 1, 2012.**
- 3 **(d) This SECTION expires December 31, 2012.**
(Reference is to HB 1080 as printed January 23, 2012.)

and when so amended that said bill do pass .

Committee Vote: Yeas 9, Nays 0.

