



Reprinted  
April 3, 2013

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**ENGROSSED**  
**SENATE BILL No. 347**

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DIGEST OF SB 347 (Updated April 2, 2013 2:19 pm - DI 106)

**Citations Affected:** IC 11-10; IC 35-31.5; IC 35-38; IC 35-42; noncode.

**Synopsis:** Child solicitation. Increases the penalty for child solicitation to a Class B felony if a person solicits the child to engage in sexual intercourse or deviate sexual conduct and the person: (1) has a previous conviction; or (2) travels to meet the child after using a computer network to solicit the child. Prohibits sex offenders, as a condition of probation, parole, or participation in a community transition program,  
(Continued next page)

**Effective:** Upon passage; July 1, 2013; July 1, 2014.

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**Head, Young R Michael, Merritt,**  
**Randolph, Zakas, Kruse,**  
**Miller Patricia, Wyss, Holdman**  
(HOUSE SPONSOR — MCMILLIN)

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January 8, 2013, read first time and referred to Committee on Corrections & Criminal Law.  
February 7, 2013, amended, reported favorably — Do Pass.  
February 14, 2013, read second time, amended, ordered engrossed.  
February 15, 2013, engrossed.  
February 18, 2013, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Courts and Criminal Code.  
March 28, 2013, reported — Do Pass.  
April 2, 2013, read second time, amended, ordered engrossed.

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from using social media to contact a child less than 16 years of age, makes it a Class A misdemeanor if the person knowingly or intentionally violates this condition, and increases the penalty to a Class D felony if the person has a prior unrelated conviction for a violation of this provision. Provides a defense if the person reasonably believed that the child was at least 16 years of age. Specifies that a person at least 18 years of age can commit the offense of inappropriate communication with a child. (Under current law, the offense can only be committed by a person at least 21 years of age.) Increases the penalty for inappropriate communication with a child if the person has a prior unrelated conviction for a sex offense. Urges the legislative council to assign to the criminal law and sentencing policy study committee or another existing study committee the topic of the collection of crime and delinquency data.

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Reprinted  
April 3, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 347

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:*

1 SECTION 1. IC 11-10-11.5-11, AS AMENDED BY P.L.3-2008,  
2 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 11. **(a)** While assigned to a community  
4 transition program, a person must comply with:

5 (1) the rules concerning the conduct of persons in the community  
6 transition program, including rules related to payments described  
7 in section 12 of this chapter, that are adopted by the community  
8 corrections advisory board establishing the program or, in  
9 counties that are not served by a community corrections program,  
10 that are jointly adopted by the courts in the county with felony  
11 jurisdiction; and

12 (2) any conditions established by the sentencing court for the  
13 person.

14 **(b) As a rule of the community transition program, a person**  
15 **convicted of a sex offense (as defined in IC 11-8-8-5.2) may not use**  
16 **a social networking web site (as defined in IC 35-31.5-2-307) or an**  
17 **instant messaging or chat room program (as defined in**

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1 IC 35-31.5-2-173) to communicate, directly or through an  
 2 intermediary, with a child less than sixteen (16) years of age.  
 3 However, the rules of the community transition program may  
 4 permit the offender to communicate using a social networking web  
 5 site or an instant messaging or chat room program with the  
 6 person's own child, stepchild, or sibling or another relative of the  
 7 person specifically named in the rules applicable to that person.

8 SECTION 2. IC 35-31.5-2-173, AS ADDED BY P.L.114-2012,  
 9 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2013]: Sec. 173. "Instant messaging or chat room program",  
 11 for purposes of IC 35-42-4-12, has the meaning set forth in  
 12 IC 35-42-4-12(e): means a software program that requires a person  
 13 to register or create an account, a username, or a password to  
 14 become a member or registered user of the program and allows  
 15 two (2) or more members or authorized users to communicate over  
 16 the Internet in real time using typed text. The term does not  
 17 include an electronic mail program or message board program.

18 SECTION 3. IC 35-31.5-2-307, AS ADDED BY P.L.114-2012,  
 19 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2013]: Sec. 307. "Social networking web site" for purposes of  
 21 IC 35-42-4-12, has the meaning set forth in IC 35-42-4-12(d): means  
 22 an Internet web site that:

- 23 (1) facilitates the social introduction between two (2) or more  
 24 persons;
- 25 (2) requires a person to register or create an account, a  
 26 username, or a password to become a member of the web site  
 27 and to communicate with other members;
- 28 (3) allows a member to create a web page or a personal  
 29 profile; and
- 30 (4) provides a member with the opportunity to communicate  
 31 with another person.

32 The term does not include an electronic mail program or message  
 33 board program.

34 SECTION 4. IC 35-38-2-2.7 IS ADDED TO THE INDIANA CODE  
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 36 UPON PASSAGE]: Sec. 2.7. As a condition of probation or parole  
 37 after conviction for a sex offense (as defined in IC 11-8-8-5.2), the  
 38 court shall prohibit the convicted person from using a social  
 39 networking web site or an instant messaging or chat room program  
 40 to communicate, directly or through an intermediary, with a child  
 41 less than sixteen (16) years of age. However, the court may permit  
 42 the offender to communicate using a social networking web site or



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1 **an instant messaging or chat room program with the person's own**  
 2 **child, stepchild, or sibling or another relative of the person**  
 3 **specifically named in the court's order.**

4 SECTION 5. IC 35-42-4-6, AS AMENDED BY P.L.216-2007,  
 5 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2014]: Sec. 6. (a) As used in this section, "solicit" means to  
 7 command, authorize, urge, incite, request, or advise an individual

8 ~~(1) in person;~~

9 ~~(2) by telephone;~~

10 ~~(3) in writing;~~

11 ~~(4) by using a computer network (as defined in IC 35-43-2-3(a));~~

12 ~~(5) by advertisement of any kind; or~~

13 ~~(6) by any other means;~~

14 to perform an act described in subsection (b) or (c).

15 (b) A person eighteen (18) years of age or older who knowingly or  
 16 intentionally solicits a child under fourteen (14) years of age, or an  
 17 individual the person believes to be a child under fourteen (14) years  
 18 of age, to engage in

19 ~~(1) sexual intercourse,~~

20 ~~(2) deviate sexual conduct, or~~

21 ~~(3) any fondling or touching intended to arouse or satisfy the~~  
 22 ~~sexual desires of either the child or the older person~~

23 commits child solicitation, a Class D felony. However, the offense is  
 24 a Class C felony if it is committed by using a computer network (as  
 25 defined in IC 35-43-2-3(a)), and a Class B felony if the person **solicits**  
 26 **the child to engage in sexual intercourse or deviate sexual conduct**  
 27 **and:**

28 ~~(1) commits the offense by using a computer network (as defined~~  
 29 ~~in IC 35-43-2-3(a)) and **travels to meet the child or individual**~~  
 30 ~~**the person believes to be a child; or**~~

31 ~~(2) has a previous unrelated conviction for committing **the an**~~  
 32 ~~offense **by using a computer network (as defined in**~~  
 33 ~~**IC 35-43-2-3(a)). **under this section.****~~

34 (c) A person at least twenty-one (21) years of age who knowingly or  
 35 intentionally solicits a child at least fourteen (14) years of age but less  
 36 than sixteen (16) years of age, or an individual the person believes to  
 37 be a child at least fourteen (14) years of age but less than sixteen (16)  
 38 years of age, to engage in

39 ~~(1) sexual intercourse,~~

40 ~~(2) deviate sexual conduct, or~~

41 ~~(3) any fondling or touching intended to arouse or satisfy the~~  
 42 ~~sexual desires of either the child or the older person~~

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1 commits child solicitation, a Class D felony. However, the offense is  
 2 a Class C felony if ~~it is committed~~ **the person solicits the child to**  
 3 **engage in sexual intercourse or deviate sexual conduct and makes**  
 4 **the solicitation** by using a computer network (as defined in  
 5 IC 35-43-2-3(a)), and a Class B felony if the person **solicits the child**  
 6 **to engage in sexual intercourse or deviate sexual conduct and:**

7 (1) commits the offense by using a computer network (as defined  
 8 in IC 35-43-2-3(a)) and **travels to meet the child or individual**  
 9 **the person believes to be a child; or**

10 (2) has a previous unrelated conviction for committing ~~the an~~  
 11 ~~offense by using a computer network (as defined in~~  
 12 ~~IC 35-43-2-3(a)):~~ **under this section.**

13 (d) In a prosecution under this section, including a prosecution for  
 14 attempted solicitation, the state is not required to prove that the person  
 15 solicited the child to engage in an act described in subsection (b) or (c)  
 16 at some immediate time.

17 SECTION 6. IC 35-42-4-12, AS ADDED BY P.L.119-2008,  
 18 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2013]: Sec. 12. (a) This section ~~does not apply to a person to~~  
 20 **applies only to a sex offender (as defined in IC 11-8-8-4.5).** ~~whom~~  
 21 ~~all of the following apply:~~

22 (1) ~~The person is not more than:~~

23 (A) four (4) years older than the victim if the offense was  
 24 committed after June 30, 2007; or

25 (B) five (5) years older than the victim if the offense was  
 26 committed before July 1, 2007.

27 (2) ~~The relationship between the person and the victim was a~~  
 28 ~~dating relationship or an ongoing personal relationship. The term~~  
 29 ~~"ongoing personal relationship" does not include a family~~  
 30 ~~relationship.~~

31 (3) ~~The crime:~~

32 (A) was not committed by a person who is at least twenty-one  
 33 (21) years of age;

34 (B) was not committed by using or threatening the use of  
 35 deadly force;

36 (C) was not committed while armed with a deadly weapon;

37 (D) did not result in serious bodily injury;

38 (E) was not facilitated by furnishing the victim, without the  
 39 victim's knowledge, with a drug (as defined in  
 40 IC ~~16-42-19-2(1))~~ or a controlled substance (as defined in  
 41 IC 35-48-1-9) or knowing that the victim was furnished with  
 42 the drug or controlled substance without the victim's

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- 1 knowledge; and  
 2 (F) was not committed by a person having a position of  
 3 authority or substantial influence over the victim:  
 4 **(b) A sex offender who knowingly or intentionally violates a:**  
 5 **(1) condition of probation;**  
 6 **(2) condition of parole; or**  
 7 **(3) rule of a community transition program;**  
 8 **that prohibits the offender from using a social networking web site**  
 9 **or an instant messaging or chat room program to communicate,**  
 10 **directly or through an intermediary, with a child less than sixteen**  
 11 **(16) years of age, commits a sex offender internet offense, a Class**  
 12 **A misdemeanor. However, the offense is a Class D felony if the**  
 13 **person has a prior unrelated conviction under this section.**  
 14 (b) This section applies only to a person required to register as a sex  
 15 or violent offender under IC 11-8-8 who has been:  
 16 (1) found to be a sexually violent predator under IC 35-38-1-7.5;  
 17 or  
 18 (2) convicted of one (1) or more of the following offenses:  
 19 (A) Child molesting (IC 35-42-4-3).  
 20 (B) Child exploitation (IC 35-42-4-4(b)).  
 21 (C) Possession of child pornography (IC 35-42-4-4(c)).  
 22 (D) Vicarious sexual gratification (IC 35-42-4-5(a) or  
 23 IC 35-42-4-5(b)).  
 24 (E) Sexual conduct in the presence of a minor  
 25 (IC 35-42-4-5(c)).  
 26 (F) Child solicitation (IC 35-42-4-6).  
 27 (G) Child seduction (IC 35-42-4-7).  
 28 (H) Kidnapping (IC 35-42-3-2), if the victim is less than  
 29 eighteen (18) years of age and the person is not the child's  
 30 parent or guardian.  
 31 (I) Attempt to commit or conspiracy to commit an offense  
 32 listed in clauses (A) through (H).  
 33 (J) An offense in another jurisdiction that is substantially  
 34 similar to an offense described in clauses (A) through (H).  
 35 (c) As used in this section, "instant messaging or chat room  
 36 program" means a software program that requires a person to register  
 37 or create an account, a username, or a password to become a member  
 38 or registered user of the program and allows two (2) or more members  
 39 or authorized users to communicate over the Internet in real time using  
 40 typed text. The term does not include an electronic mail program or  
 41 message board program.  
 42 (d) As used in this section, "social networking web site" means an



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- 1 Internet web site that:
- 2 (1) facilitates the social introduction between two (2) or more
- 3 persons;
- 4 (2) requires a person to register or create an account, a username,
- 5 or a password to become a member of the web site and to
- 6 communicate with other members;
- 7 (3) allows a member to create a web page or a personal profile;
- 8 and
- 9 (4) provides a member with the opportunity to communicate with
- 10 another person.

11 The term does not include an electronic mail program or message

12 board program.

13 (e) A person described in subsection (b) who knowingly or

14 intentionally uses:

- 15 (1) a social networking web site; or
- 16 (2) an instant messaging or chat room program;
- 17 that the offender knows allows a person who is less than eighteen (18)
- 18 years of age to access or use the web site or program commits a sex
- 19 offender Internet offense; a Class A misdemeanor. However, the
- 20 offense is a Class D felony if the person has a prior unrelated
- 21 conviction under this section.

22 (f) It is a defense to a prosecution under this section that the person:

23 (1) did not know that the web site or program allowed a person

24 who is less than eighteen (18) years of age to access or use the

25 web site or program; and

26 (2) upon discovering that the web site or program allows a person

27 who is less than eighteen (18) years of age to access or use the

28 web site or program; immediately ceased further use or access of

29 the web site or program.

30 (c) It is a defense to a prosecution under subsection (b) that the

31 person reasonably believed that the child was at least sixteen (16)

32 years of age.

33 SECTION 7. IC 35-42-4-13, AS ADDED BY P.L.119-2008,

34 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

35 JULY 1, 2013]: Sec. 13. (a) This section does not apply to the

36 following:

- 37 (1) A parent, guardian, or custodian of a child.
- 38 (2) A person who acts with the permission of a child's parent,
- 39 guardian, or custodian.
- 40 (3) A person to whom a child makes a report of abuse or neglect.
- 41 (4) A person to whom a child reports medical symptoms that
- 42 relate to or may relate to sexual activity.



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1 (b) As used in this section, "sexual activity" means sexual  
2 intercourse, deviate sexual conduct, or the fondling or touching of the  
3 buttocks, genitals, or female breasts.

4 (c) A person at least ~~twenty-one (21)~~ **eighteen (18)** years of age who  
5 knowingly or intentionally communicates with an individual whom the  
6 person believes to be a child less than fourteen (14) years of age  
7 concerning sexual activity with the intent to gratify the sexual desires  
8 of the person or the individual commits inappropriate communication  
9 with a child, a Class B misdemeanor. However, the offense is a Class  
10 A misdemeanor if the person commits the offense by using a computer  
11 network (as defined in IC 35-43-2-3(a)), **and a Class D felony if the**  
12 **person has a prior unrelated conviction for a sex offense (as**  
13 **defined in IC 11-8-8-5.2).**

14 SECTION 8. [EFFECTIVE JULY 1, 2013] (a) **The general**  
15 **assembly urges the legislative council to assign to the criminal law**  
16 **and sentencing policy study committee or another existing study**  
17 **committee, for study during the 2013 legislative interim, the topic**  
18 **of the collection of crime and delinquency data.**

19 (b) **If the topic set forth in subsection (a) is assigned to a study**  
20 **committee, the committee shall consider:**

21 (1) **the extent to which certain crimes, including sex crimes**  
22 **and crimes of domestic violence, are underreported to law**  
23 **enforcement; and**

24 (2) **evidence showing that children who are the victims of sex**  
25 **crimes or crimes of domestic violence are particularly**  
26 **reluctant to report these crimes to law enforcement.**

27 (c) **This SECTION expires November 1, 2013.**

28 SECTION 9. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 347, 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:

Replace the effective date in SECTION 1 with "[EFFECTIVE JULY 1, 2014]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-31.5-2-173, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 173. "Instant messaging or chat room program", for purposes of IC 35-42-4-12, has the meaning set forth in ~~IC 35-42-4-12(c)~~. **IC 35-42-4-12.**

SECTION 2. IC 35-31.5-2-307, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 307. "Social networking web site" for purposes of IC 35-42-4-12, has the meaning set forth in ~~IC 35-42-4-12(d)~~. **IC 35-42-4-12.**"

Page 2, line 5, delete ":" and insert "**solicits the child to engage in sexual intercourse or deviate sexual conduct and:**".

Page 2, line 22, strike "it is committed" and insert "**the person solicits the child to engage in sexual intercourse or deviate sexual conduct and makes the solicitation**".

Page 2, line 23, delete ":" and insert "**solicits the child to engage in sexual intercourse or deviate sexual conduct and:**".

Page 2, after line 33, begin a new paragraph and insert:

"SECTION 4. IC 35-42-4-12, AS ADDED BY P.L.119-2008, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) This section does not apply to a person to whom all of the following apply:

- (1) The person is not more than:
  - (A) four (4) years older than the victim if the offense was committed after June 30, 2007; or
  - (B) five (5) years older than the victim if the offense was committed before July 1, 2007.
- (2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

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## (3) The crime:

- (A) was not committed by a person who is at least twenty-one (21) years of age;
- (B) was not committed by using or threatening the use of deadly force;
- (C) was not committed while armed with a deadly weapon;
- (D) did not result in serious bodily injury;
- (E) 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
- (F) was not committed by a person having a position of authority or substantial influence over the victim.

(b) This section applies only to a person required to register as a sex or violent offender under IC 11-8-8 who has been:

(1) found to be a sexually violent predator under IC 35-38-1-7.5;  
or

(2) convicted of one (1) or more of the following offenses:

- (A) Child molesting (IC 35-42-4-3).
- (B) Child exploitation (IC 35-42-4-4(b)).
- (C) Possession of child pornography (IC 35-42-4-4(c)).
- (D) Vicarious sexual gratification (IC 35-42-4-5(a) or IC 35-42-4-5(b)).
- (E) Sexual conduct in the presence of a minor (IC 35-42-4-5(c)).
- (F) Child solicitation (IC 35-42-4-6).
- (G) Child seduction (IC 35-42-4-7).
- (H) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.
- (I) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (H).
- (J) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (H).

(c) (b) As used in this section, "instant messaging or chat room program" means a software program that requires a person to register or create an account, a username, or a password to become a member or registered user of the program and allows two (2) or more members or authorized users to communicate over the Internet in real time using typed text. The term does not include an electronic mail program or

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message board program.

~~(d)~~ (c) As used in this section, "social networking web site" means an Internet web site that:

- (1) facilitates the social introduction between two (2) or more persons;
- (2) requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members;
- (3) allows a member to create a web page or a personal profile; and
- (4) provides a member with the opportunity to communicate with another person.

The term does not include an electronic mail program or message board program.

(e) A person described in subsection (b) who knowingly or intentionally uses:

- (1) a social networking web site; or
- (2) an instant messaging or chat room program;

that the offender knows allows a person who is less than eighteen (18) years of age to access or use the web site or program commits a sex offender Internet offense; a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.

**(d) Unless prohibited by a court order from having contact with the child, subsection (e) does not apply to the following persons who use a social networking web site or an instant messaging or chat room program to communicate with a child less than sixteen (16) years of age:**

- (1) A parent or guardian of the child.**
- (2) Another person related (as defined in IC 31-9-2-106.5) to the child.**

**(e) This subsection applies only to a person who has been convicted of (1) or more of the following offenses:**

- (1) Child molesting (IC 35-42-4-3).**
- (2) Child exploitation (IC 35-42-4-4(b)).**
- (3) Child solicitation (IC 35-42-4-6).**
- (4) Child seduction (IC 35-42-4-7).**
- (5) Attempt to commit or conspiracy to commit an offense listed in subdivisions (1) through (4).**
- (6) An offense in another jurisdiction that is substantially similar to an offense described in subdivisions (1) through (5).**

**A person to whom this subsection applies who knowingly or**

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**intentionally uses a social networking web site or an instant messaging or chat room program to communicate, directly or through an intermediary, with a child less than sixteen (16) years of age commits a sex offender Internet offense, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.**

- (f) It is a defense to a prosecution under this section that the person:
  - (1) did not know that the web site or program allowed a person who is less than eighteen (18) years of age to access or use the web site or program; and
  - (2) upon discovering that the web site or program allows a person who is less than eighteen (18) years of age to access or use the web site or program, immediately ceased further use or access of the web site or program.

**(f) It is a defense to a prosecution under subsection (e) that the person reasonably believed that the child was at least sixteen (16) years of age."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 347 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 347 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 11-10-11.5-11, AS AMENDED BY P.L.3-2008, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a)** While assigned to a community transition program, a person must comply with:

- (1) the rules concerning the conduct of persons in the community transition program, including rules related to payments described in section 12 of this chapter, that are adopted by the community corrections advisory board establishing the program or, in counties that are not served by a community corrections program, that are jointly adopted by the courts in the county with felony

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jurisdiction; and

(2) any conditions established by the sentencing court for the person.

**(b) As a rule of the community transition program, a person convicted of a sex offense (as defined in IC 11-8-8-5.2) may not use a social networking web site (as defined in IC 35-31.5-2-307) or an instant messaging or chat room program (as defined in IC 35-31.5-2-173) to communicate, directly or through an intermediary, with a child less than sixteen (16) years of age. However, the rules of the community transition program may permit the offender to communicate using a social networking web site or an instant messaging or chat room program with the person's own child, stepchild, or sibling or another relative of the person specifically named in the rules applicable to that person."**

Page 1, strike line 4.

Page 1, line 15, after "IC 35-42-4-12(c)." insert "**means a software program that requires a person to register or create an account, a username, or a password to become a member or registered user of the program and allows two (2) or more members or authorized users to communicate over the Internet in real time using typed text. The term does not include an electronic mail program or message board program."**

Page 1, line 5, delete "IC 35-42-4-12."

Page 1, line 8, strike "for purposes of" and insert "**means an Internet web site that:**

- (1) facilitates the social introduction between two (2) or more persons;**
- (2) requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members;**
- (3) allows a member to create a web page or a personal profile; and**
- (4) provides a member with the opportunity to communicate with another person.**

**The term does not include an electronic mail program or message board program."**

Page 1, line 9, strike "IC 35-42-4-12, has the meaning set forth in".

Page 1, delete line 10, begin a new paragraph and insert:

**"SECTION 3. IC 35-38-2-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.7. As a condition of probation or parole after conviction for a sex offense (as defined in**

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**IC 11-8-8-5.2), the court shall prohibit the convicted person from using a social networking web site or an instant messaging or chat room program to communicate, directly or through an intermediary, with a child less than sixteen (16) years of age. However, the court may permit the offender to communicate using a social networking web site or an instant messaging or chat room program with the person's own child, stepchild, or sibling or another relative of the person specifically named in the court's order."**

Page 3, line 9, strike "does not apply to a person to" and insert **"applies only to a sex offender (as defined in IC 11-8-8-4.5)."**

Page 3, strike lines 10 through 34, begin a new paragraph and insert:

**"(b) A sex offender who knowingly or intentionally violates a:**

**(1) condition of probation;**

**(2) condition of parole; or**

**(3) rule of a community transition program;**

**that prohibits the offender from using a social networking web site or an instant messaging or chat room program to communicate, directly or through an intermediary, with a child less than sixteen (16) years of age, commits a sex offender internet offense, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section."**

Page 4, line 14, delete "(b)".

Page 4, line 14, strike "As used in this section, "instant messaging or chat room".

Page 4, strike lines 15 through 20.

Page 4, line 21, delete "(c)".

Page 4, line 21, strike "As used in this section, "social networking web site" means".

Page 4, strike lines 22 through 33.

Page 5, delete lines 1 through 25.

Page 5, line 34, delete "(f)" and insert **"(c)"**.

Page 5, line 34, delete "(e)" and insert **"(b)"**.

Page 5, after line 36, begin a new paragraph and insert:

**"SECTION 5. IC 35-42-4-13, AS ADDED BY P.L.119-2008, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) This section does not apply to the following:**

**(1) A parent, guardian, or custodian of a child.**

**(2) A person who acts with the permission of a child's parent, guardian, or custodian.**

**(3) A person to whom a child makes a report of abuse or neglect.**

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(4) A person to whom a child reports medical symptoms that relate to or may relate to sexual activity.

(b) As used in this section, "sexual activity" means sexual intercourse, deviate sexual conduct, or the fondling or touching of the buttocks, genitals, or female breasts.

(c) A person at least ~~twenty-one (21)~~ **eighteen (18)** years of age who knowingly or intentionally communicates with an individual whom the person believes to be a child less than fourteen (14) years of age concerning sexual activity with the intent to gratify the sexual desires of the person or the individual commits inappropriate communication with a child, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)), **and a Class D felony if the person has a prior unrelated conviction for a sex offense (as defined in IC 11-8-8-5.2).**

SECTION 6. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to SB 347 as printed February 8, 2013.)

TALLIAN

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 347, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

MCMILLIN, Chair

Committee Vote: yeas 9, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 347 be amended to read as follows:

Page 7, between lines 13 and 14, begin a new paragraph and insert:

**"SECTION 8. [EFFECTIVE JULY 1, 2013] (a) The general assembly urges the legislative council to assign to the criminal law and sentencing policy study committee or another existing study committee, for study during the 2013 legislative interim, the topic of the collection of crime and delinquency data.**

**(b) If the topic set forth in subsection (a) is assigned to a study committee, the committee shall consider:**

**(1) the extent to which certain crimes, including sex crimes and crimes of domestic violence, are underreported to law enforcement; and**

**(2) evidence showing that children who are the victims of sex crimes or crimes of domestic violence are particularly reluctant to report these crimes to law enforcement.**

**(c) This SECTION expires November 1, 2013."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 347 as printed March 29, 2013.)

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