

# SENATE BILL No. 449

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-41-8-1; IC 31-30; IC 31-37-19; IC 31-40-1-1.5.

**Synopsis:** Juveniles. For certain serious offenses committed by a juvenile: (1) reduces the minimum age for committing the child to the department of correction from 13 to 12; (2) adds an attempt to commit certain serious offenses to the list of serious offenses; and (3) permits the court to commit a juvenile to the department of correction for up to six years. (Under current law, the juvenile may only be committed until the child reaches 18 years of age.) Removes the two year cap on certain placements that applies to certain recidivist juveniles. Allows the waiver of a juvenile charged with attempted murder to adult court if the juvenile is at least 12 years of age. (Under current law, waiver is only permitted for a juvenile of that age for murder.) Specifies that the juvenile court lacks jurisdiction over certain juveniles charged with an attempt to commit certain crimes. Repeals an obsolete provision and makes conforming amendments.

**Effective:** July 1, 2020.

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January 16, 2020, read first time and referred to Committee on Corrections and Criminal Law.

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Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## SENATE BILL No. 449

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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 16-41-8-1, AS AMENDED BY P.L.218-2019,  
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 1. (a) As used in this chapter, "potentially disease  
4 transmitting offense" means any of the following:

- 5 (1) Battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3)  
6 involving placing a bodily fluid or waste on another person.  
7 (2) An offense relating to a criminal sexual act (as defined in  
8 IC 35-31.5-2-216), if sexual intercourse or other sexual conduct  
9 (as defined in IC 35-31.5-2-221.5) occurred.

10 The term includes an attempt to commit an offense, if sexual  
11 intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)  
12 occurred, and a delinquent act that would be a crime if committed by  
13 an adult.

14 (b) Except as provided in this chapter, a person may not disclose or  
15 be compelled to disclose medical or epidemiological information  
16 involving a communicable disease or other disease that is a danger to  
17 health (as set forth in the list published under IC 16-41-2-1). This



1 information may not be released or made public upon subpoena or  
 2 otherwise, except under the following circumstances:

3 (1) Release may be made of medical or epidemiologic information  
 4 for statistical purposes if done in a manner that does not identify  
 5 an individual.

6 (2) Release may be made of medical or epidemiologic information  
 7 with the written consent of all individuals identified in the  
 8 information released.

9 (3) Release may be made of medical or epidemiologic information  
 10 to the extent necessary to enforce public health laws, laws  
 11 described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9  
 12 through IC 31-37-19-10 (**before its repeal**), IC 31-37-19-12  
 13 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-45-21-1 or to  
 14 protect the health or life of a named party.

15 (4) Release may be made of the medical information of a person  
 16 in accordance with this chapter.

17 (c) Except as provided in this chapter, a person responsible for  
 18 recording, reporting, or maintaining information required to be reported  
 19 under IC 16-41-2 who recklessly, knowingly, or intentionally discloses  
 20 or fails to protect medical or epidemiologic information classified as  
 21 confidential under this section commits a Class A misdemeanor.

22 (d) In addition to subsection (c), a public employee who violates this  
 23 section is subject to discharge or other disciplinary action under the  
 24 personnel rules of the agency that employs the employee.

25 (e) Release shall be made of the medical records concerning an  
 26 individual to:

27 (1) the individual;

28 (2) a person authorized in writing by the individual to receive the  
 29 medical records; or

30 (3) a coroner under IC 36-2-14-21.

31 (f) An individual may voluntarily disclose information about the  
 32 individual's communicable disease.

33 (g) The provisions of this section regarding confidentiality apply to  
 34 information obtained under IC 16-41-1 through IC 16-41-16.

35 SECTION 2. IC 31-30-1-4, AS AMENDED BY P.L.28-2016,  
 36 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2020]: Sec. 4. (a) The juvenile court does not have jurisdiction  
 38 over an individual for an alleged violation of:

39 (1) IC 35-41-5-1(a) (attempted murder);

40 (2) IC 35-42-1-1 (murder);

41 (3) IC 35-42-3-2 (kidnapping);

42 (4) IC 35-42-4-1 (rape);



- 1 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);  
 2 (6) IC 35-42-5-1 (robbery) if:  
 3 (A) the robbery was committed while armed with a deadly  
 4 weapon; or  
 5 (B) the robbery results in bodily injury or serious bodily  
 6 injury;  
 7 (7) IC 35-42-5-2 (carjacking) (before its repeal);  
 8 (8) IC 35-47-2-1 (carrying a handgun without a license), if  
 9 charged as a felony;  
 10 (9) IC 35-47-10 (children and firearms), if charged as a felony; **or**  
 11 (10) any offense that may be joined under IC 35-34-1-9(a)(2) with  
 12 any crime listed in this subsection; **or**  
 13 **(11) an attempt to commit an offense described in subdivisions**  
 14 **(3) through (7).**

15 if the individual was at least sixteen (16) years of age but less than  
 16 eighteen (18) years of age at the time of the alleged violation.

17 (b) Once an individual described in subsection (a) has been charged  
 18 with any offense listed in subsection (a), the court having adult  
 19 criminal jurisdiction shall retain jurisdiction over the case if the  
 20 individual pleads guilty to or is convicted of any offense listed in  
 21 subsection (a)(1) through (a)(9).

22 (c) If:

- 23 (1) an individual described in subsection (a) is charged with one  
 24 (1) or more offenses listed in subsection (a);  
 25 (2) all the charges under subsection (a)(1) through (a)(9) resulted  
 26 in an acquittal or were dismissed; and  
 27 (3) the individual pleads guilty to or is convicted of any offense  
 28 other than an offense listed in subsection (a)(1) through (a)(9);

29 the court having adult criminal jurisdiction may withhold judgment and  
 30 transfer jurisdiction to the juvenile court for adjudication and  
 31 disposition. In determining whether to transfer jurisdiction to the  
 32 juvenile court for adjudication and disposition, the court having adult  
 33 criminal jurisdiction shall consider whether there are appropriate  
 34 services available in the juvenile justice system, whether the child is  
 35 amenable to rehabilitation under the juvenile justice system, and  
 36 whether it is in the best interests of the safety and welfare of the  
 37 community that the child be transferred to juvenile court. All orders  
 38 concerning release conditions remain in effect until a juvenile court  
 39 detention hearing, which must be held not later than forty-eight (48)  
 40 hours, excluding Saturdays, Sundays, and legal holidays, after the order  
 41 of transfer of jurisdiction.

42 SECTION 3. IC 31-30-3-4, AS AMENDED BY P.L.187-2015,



1 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2020]: Sec. 4. Upon motion of the prosecuting attorney and  
3 after full investigation and hearing, the juvenile court shall waive  
4 jurisdiction if it finds that:

- 5 (1) the child is charged with an act that would be murder **or**  
6 **attempted murder** if committed by an adult;  
7 (2) there is probable cause to believe that the child has committed  
8 the act; and  
9 (3) the child was at least twelve (12) years of age when the act  
10 charged was allegedly committed;

11 unless it would be in the best interests of the child and of the safety and  
12 welfare of the community for the child to remain within the juvenile  
13 justice system.

14 SECTION 4. IC 31-37-19-6, AS AMENDED BY P.L.146-2008,  
15 SECTION 651, IS AMENDED TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) This section applies if a child  
17 is a delinquent child under IC 31-37-1.

18 (b) ~~Except as provided in section 10 of this chapter and~~ Subject to  
19 section 6.5 of this chapter, the juvenile court may:

- 20 (1) enter any dispositional decree specified in section 5 of this  
21 chapter; and  
22 (2) take any of the following actions:

23 (A) Award wardship to:

- 24 (i) the department of correction for housing in a correctional  
25 facility for children; or  
26 (ii) a community based correctional facility for children.

27 Wardship under this subdivision does not include the right to  
28 consent to the child's adoption.

29 (B) If the child is less than seventeen (17) years of age, order  
30 confinement in a juvenile detention facility for not more than  
31 the lesser of:

- 32 (i) ninety (90) days; or  
33 (ii) the maximum term of imprisonment that could have  
34 been imposed on the child if the child had been convicted as  
35 an adult offender for the act that the child committed under  
36 IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

37 (C) If the child is at least seventeen (17) years of age, order  
38 confinement in a juvenile detention facility for not more than  
39 the lesser of:

- 40 (i) one hundred twenty (120) days; or  
41 (ii) the maximum term of imprisonment that could have  
42 been imposed on the child if the child had been convicted as



- 1 an adult offender for the act that the child committed under  
 2 IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).
- 3 (D) Remove the child from the child's home and place the  
 4 child in another home or shelter care facility. Placement under  
 5 this subdivision includes authorization to control and  
 6 discipline the child.
- 7 (E) Award wardship to a:  
 8 (i) person, other than the department; or  
 9 (ii) shelter care facility.
- 10 Wardship under this subdivision does not include the right to  
 11 consent to the child's adoption.
- 12 (F) Place the child in a secure private facility for children  
 13 licensed under the laws of a state. Placement under this  
 14 subdivision includes authorization to control and discipline the  
 15 child.
- 16 (G) Order a person who is a respondent in a proceeding under  
 17 IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from  
 18 direct or indirect contact with the child.
- 19 (c) If a dispositional decree under this section:  
 20 (1) orders or approves removal of a child from the child's home,  
 21 or awards wardship of the child to a:  
 22 (A) person, other than the department; or  
 23 (B) shelter care facility; and  
 24 (2) is the first court order in the delinquent child proceeding that  
 25 authorizes or approves removal of the child from the child's  
 26 parent, guardian, or custodian;  
 27 the juvenile court shall include in the decree the appropriate findings  
 28 and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).
- 29 SECTION 5. IC 31-37-19-9, AS AMENDED BY P.L.214-2013,  
 30 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2020]: Sec. 9. (a) This section applies if a child is a delinquent  
 32 child under IC 31-37-1.
- 33 (b) ~~After a juvenile court makes a determination under IC 11-8-8-5;~~  
 34 The juvenile court may, in addition to an order under section 6 of this  
 35 chapter, and if the child:  
 36 (1) is at least ~~thirteen (13)~~ **twelve (12)** years of age and less than  
 37 sixteen (16) years of age; and  
 38 (2) committed an act that, if committed by an adult, would be:  
 39 (A) murder (IC 35-42-1-1);  
 40 (B) kidnapping (IC 35-42-3-2);  
 41 (C) rape (IC 35-42-4-1);  
 42 (D) criminal deviate conduct (IC 35-42-4-2) (repealed); ~~or~~



1 (E) robbery (IC 35-42-5-1) if the robbery was committed while  
 2 armed with a deadly weapon or if the robbery resulted in  
 3 bodily injury or serious bodily injury; or

4 **(F) an attempt to commit an offense described in this**  
 5 **subdivision;**

6 order wardship of the child to the department of correction for a fixed  
 7 period that is not longer than ~~the date the child becomes eighteen (18)~~  
 8 ~~years of age; six (6) years~~, subject to IC 11-10-2-10.

9 (c) Notwithstanding IC 11-10-2-5, the department of correction may  
 10 not reduce the period ordered under this section (or  
 11 IC 31-6-4-15.9(b)(8) before its repeal).

12 SECTION 6. IC 31-37-19-10 IS REPEALED [EFFECTIVE JULY  
 13 1, 2020]. ~~Sec. 10:~~ (a) ~~This section applies to a child who:~~

14 ~~(1) is adjudicated a delinquent child for an act that if committed~~  
 15 ~~by an adult would be:~~

16 ~~(A) a felony against a person;~~

17 ~~(B) a Level 1, Level 2, Level 3, or Level 4 felony that is a~~  
 18 ~~controlled substances offense under IC 35-48-4-1 through~~  
 19 ~~IC 35-48-4-5; or~~

20 ~~(C) burglary as a Level 1, Level 2, Level 3, or Level 4 felony~~  
 21 ~~under IC 35-43-2-1;~~

22 ~~(2) is at least fourteen (14) years of age at the time the child~~  
 23 ~~committed the act for which the child is being placed; and~~

24 ~~(3) has two (2) unrelated prior adjudications of delinquency for~~  
 25 ~~acts that would be felonies if committed by an adult.~~

26 ~~(b) A court may place the child in a facility authorized under this~~  
 27 ~~chapter for not more than two (2) years.~~

28 ~~(c) Notwithstanding IC 11-10-2-5, the department of correction may~~  
 29 ~~not reduce the period ordered under this section (or IC 31-6-4-15.9(n)~~  
 30 ~~before its repeal).~~

31 SECTION 7. IC 31-40-1-1.5, AS ADDED BY P.L.146-2008,  
 32 SECTION 664, IS AMENDED TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2020]: Sec. 1.5. (a) As used in this chapter,  
 34 "costs of secure detention" includes all expenses relating to any of the  
 35 following items:

36 (1) Construction, repair, operation, maintenance, and  
 37 administration of a secure detention facility.

38 (2) Room, board, supervision, and support services for housing at  
 39 a secure detention facility of a child who has been:

40 (A) taken into custody under IC 31-37-5 and placed in a secure  
 41 detention facility for purposes of court proceedings under  
 42 IC 31-37; or



- 1 (B) placed in a secure detention facility under IC 31-37-19-6  
2 or IC 31-37-19-10 **(before its repeal)**.
- 3 (3) Services provided by the department, a county probation  
4 office, or any service provider contracted by the department or  
5 county probation office if the services are provided:
- 6 (A) to or for the benefit of the child;  
7 (B) under or consistent with the terms of a dispositional decree  
8 entered in accordance with IC 31-37-19-6 or IC 31-37-19-10  
9 **(before its repeal)**; and  
10 (C) during the time the child is housed in a secure detention  
11 facility.
- 12 (b) As used in this chapter, "secure detention facility" includes:  
13 (1) a juvenile detention center described in IC 31-31-8 or  
14 IC 31-31-9; or  
15 (2) a secure facility, including any separate unit or structure, that  
16 is:  
17 (A) not licensed by the department under IC 31-27; or  
18 (B) located outside Indiana.
- 19 (c) As used in this chapter, "services" includes education, provision  
20 of necessary clothing and supplies, medical and dental care, counseling  
21 and remediation, or any other services or programs included in a  
22 dispositional decree or case plan ordered or approved by the juvenile  
23 court for the benefit of a delinquent child under IC 31-37.

