

SENATE BILL No. 351

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-30; IC 31-39-8.

Synopsis: Juvenile law matters. Provides that the juvenile court may exercise jurisdiction over a child who: (1) is at least 16 years of age and who is charged with certain more serious offenses; or (2) has a previous adult conviction and who is alleged to have committed an offense that would be a felony if committed by an adult. Provides for automatic expungement of a delinquency adjudication if the delinquent act: (1) did not result in bodily injury to another person; and (2) is not a sex offense.

Effective: July 1, 2020.

Taylor G

January 13, 2020, read first time and referred to Committee on Corrections and Criminal Law.



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. 351

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 31-30-1-4, AS AMENDED BY P.L.28-2016,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 4. (a) The juvenile court does not have jurisdiction
4 over an individual for an alleged violation of:
5 (1) IC 35-41-5-1(a) (attempted murder);
6 (2) IC 35-42-1-1 (murder);
7 ~~(3) IC 35-42-3-2 (kidnapping);~~
8 ~~(4) (3) IC 35-42-4-1 (rape); or~~
9 ~~(5) (4) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);~~
10 ~~(6) IC 35-42-5-1 (robbery) if:~~
11 ~~(A) the robbery was committed while armed with a deadly~~
12 ~~weapon; or~~
13 ~~(B) the robbery results in bodily injury or serious bodily~~
14 ~~injury;~~
15 ~~(7) IC 35-42-5-2 (carjacking) (before its repeal);~~
16 ~~(8) IC 35-47-2-1 (carrying a handgun without a license); if~~
17 ~~charged as a felony;~~



1 ~~(9) IC 35-47-10 (children and firearms), if charged as a felony; or~~
 2 ~~(10) any offense that may be joined under IC 35-34-1-9(a)(2) with~~
 3 ~~any crime listed in this subsection;~~
 4 if the individual was at least sixteen (16) years of age but less than
 5 eighteen (18) years of age at the time of the alleged violation.

6 (b) Once an individual described in subsection (a) has been charged
 7 with any offense listed in subsection (a), the court having adult
 8 criminal jurisdiction shall retain jurisdiction over the case if the
 9 individual pleads guilty to or is convicted of any offense listed in
 10 ~~subsection (a)(1) through (a)(9):~~ **subsection (a).**

11 (c) If:

- 12 (1) an individual described in subsection (a) is charged with one
 13 (1) or more offenses listed in subsection (a);
 14 (2) all the charges under ~~subsection (a)(1) through (a)(9)~~
 15 **subsection (a)** resulted in an acquittal or were dismissed; and
 16 (3) the individual pleads guilty to or is convicted of any offense
 17 other than an offense listed in ~~subsection (a)(1) through (a)(9);~~
 18 **subsection (a);**

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

32 SECTION 2. IC 31-30-3-6 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. Upon motion by the
 34 prosecuting attorney, the juvenile court shall waive jurisdiction if it
 35 finds that:

- 36 (1) the child is charged with an act which would be a felony if
 37 committed by an adult; and
 38 (2) the child has previously been convicted of a felony or a
 39 nontraffic misdemeanor;

40 **unless it would be in the best interests of the child and of the safety**
 41 **and welfare of the community for the child to remain within the**
 42 **juvenile justice system.**



1 SECTION 3. IC 31-39-8-3.5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2020]: **Sec. 3.5. (a) This section does not apply to the records of
 4 a child adjudicated a delinquent child for committing an act that:**

5 **(1) resulted in bodily injury to another person; or**

6 **(2) would be a sex offense (as defined in IC 11-8-8-5.2) if
 7 committed by an adult.**

8 **(b) This section applies to the records of a child adjudicated a
 9 delinquent child after June 30, 2020.**

10 **(c) One (1) year after the date on which the juvenile court
 11 discharges the child under IC 31-37-20-7, the court shall, on its
 12 own motion and without holding a hearing, order expungement of
 13 the records relating to the child's delinquency adjudication.**

14 **(d) The expungement provisions in this section supplement and
 15 are in addition to expungement provisions located elsewhere in this
 16 chapter. A person entitled to expungement of delinquency records
 17 under this section may also seek expungement under any other
 18 applicable section of this chapter.**

19 SECTION 4. IC 31-39-8-5 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 5. If the court grants the
 21 expungement petition, or orders expungement under section 3.5 of
 22 this chapter, the court shall order each law enforcement agency and
 23 each person who provided treatment for the child under an order of the
 24 court to send that person's records to the court.**

25 SECTION 5. IC 31-39-8-6, AS AMENDED BY P.L.86-2017,
 26 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2020]: **Sec. 6. (a) Subject to subsections (b) and (c), the
 28 records shall be destroyed upon a grant of an expungement petition by
 29 the court, or upon issuance of an expungement order under section
 30 3.5 of this chapter.**

31 **(b) Data from the records in subsection (a) shall be maintained by
 32 the court on a secure data base that does not enable identification of the
 33 offender to the public or another person not having legal or statutory
 34 authority to access the records.**

35 **(c) The records maintained in the data base under subsection (b)
 36 may be used only for statistical analysis, research, and financial
 37 auditing purposes.**

