



The Indiana Success Story

Indiana Enacts Comprehensive Reform Legislation Limiting the Number of Youth Transferred to the Adult System

In 2008, the Indiana General Assembly enacted major reform with the passage of House Bill 1122, which eliminated a number of different pathways for transferring juveniles charged with misdemeanors into the adult system. First, it limits the juvenile court's ability to waive jurisdiction to cases where the child is charged with certain acts that are felonies (the previous law allowed waiver for some misdemeanors). Second, it limits the "once waived, always waived" provision to children who were first waived for felony charges and whose subsequent offense is also a felony charge. The bill also narrowed the list of offenses for which juveniles may be direct filed into adult court and moved juvenile traffic violations from the jurisdiction of the adult court to the juvenile court. Finally, the bill provides that any facility that is used or has been used to house or hold juveniles shall give the Indiana criminal justice institute access to inspect and monitor the facility. This bill is an important step in protecting youth charged with minor offenses from the dangers of the adult system.¹

March 2011

References

¹ H.E. 1122, 115th Gen. Assem., 2d Reg. Sess. (Ind. 2008)

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1122

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:

SECTION 1. IC 31-30-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Except as provided in IC 33-33-45-6 and section 8 of this chapter, the juvenile law does not apply to the following:

- (1) ~~A child at least sixteen (16) years of age who allegedly committed a violation of a traffic law, the violation of which is a misdemeanor, unless the violation is an offense under IC 9-30-5.~~
- (2) (1) A child who is alleged to have committed a violation of a statute defining an infraction, except as provided under IC 7.1-5-7.
- (3) (2) A child who is alleged to have committed a violation of an ordinance.
- (4) (3) A child who:
 - (A) is alleged to have committed an act that would be a **crime felony** if committed by an adult; and
 - (B) has previously been waived under IC 31-30-3 (or IC 31-6-2-4 before its repeal) to a court having ~~misdemeanor~~ **or** felony jurisdiction.

SECTION 2. IC 31-30-1-4, AS AMENDED BY P.L.216-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

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- (1) IC 35-41-5-1(a) (attempted murder);
- (2) IC 35-42-1-1 (murder);
- (3) IC 35-42-3-2 (kidnapping);
- (4) IC 35-42-4-1 (rape);
- (5) IC 35-42-4-2 (criminal deviate conduct);
- (6) IC 35-42-5-1 (robbery) if:
 - (A) the robbery was committed while armed with a deadly weapon; or
 - (B) the robbery results in bodily injury or serious bodily injury;
- (7) IC 35-42-5-2 (carjacking);
- (8) IC 35-45-9-3 (criminal gang activity);
- (9) IC 35-45-9-4 (criminal gang intimidation);
- (10) IC 35-47-2-1 (carrying a handgun without a license), **if charged as a felony**;
- (11) IC 35-47-10 (children and firearms), **if charged as a felony**;
- (12) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
- (13) any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through (12);

if the individual was at least sixteen (16) years of age at the time of the alleged violation.

(b) The juvenile court does not have jurisdiction for an alleged violation of manufacturing or dealing in cocaine or a narcotic drug (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing in a schedule IV controlled substance (IC 35-48-4-3), if:

- (1) the individual has a prior unrelated conviction under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or
- (2) the individual has a prior unrelated juvenile adjudication that, if committed by an adult, would be a crime under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;

and the individual was at least sixteen (16) years of age at the time of the alleged violation.

(c) Once an individual described in subsection (a) or (b) has been charged with any crime listed in subsection (a) or (b), the court having adult criminal jurisdiction shall retain jurisdiction over the case even if the individual pleads guilty to or is convicted of a lesser included offense. A plea of guilty to or a conviction of a lesser included offense does not vest jurisdiction in the juvenile court.

SECTION 3. IC 31-30-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Upon motion of the prosecuting attorney and after full investigation and hearing, the

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juvenile court may waive jurisdiction if it finds that:

- (1) the child is charged with an act **that is a felony:**
 - (A) that is heinous or aggravated, with greater weight given to acts against the person than to acts against property; or
 - (B) that is a part of a repetitive pattern of delinquent acts, even though less serious;
- (2) the child was at least fourteen (14) years of age when the act charged was allegedly committed;
- (3) there is probable cause to believe that the child committed the act;
- (4) the child is beyond rehabilitation under the juvenile justice system; and
- (5) it is in the best interests of the safety and welfare of the community that the child stand trial as an adult.

SECTION 4. IC 31-37-4-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. Any facility that is used or has been used to house or hold juveniles shall give a representative or designee of the Indiana criminal justice institute's compliance monitoring program reasonable access to inspect and monitor the facility to ensure that the requirements of the Juvenile Justice and Delinquency Prevention Act are maintained.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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