



Reprinted
February 1, 2012

HOUSE BILL No. 1204

DIGEST OF HB 1204 (Updated January 31, 2012 4:25 pm - DI 51)

Citations Affected: IC 11-8; IC 35-38.

Synopsis: Sex and violent offender registry. Provides that if a person is considered to be a sex offender who must register as a sex or violent offender with the appropriate law enforcement agency if the person is: (1) a public servant or other person employed by a governmental entity or another person who provides goods or services to a person who is subject to lawful detention; and (2) convicted of engaging in sexual intercourse or deviate sexual conduct with another person who is subject to lawful detention. Specifies that when the duty of a sex offender, a violent offender, or a sexually violent offender to register changes due to a court order based on a change in the law, the expiration of the required registration period, or certain other reasons, the offender's address must be removed from the public portal for the sex and violent offender registry (registry). Specifies that the address remains available to law enforcement officials and the department of correction and that no other information may be removed from the registry. Establishes the conditions under which a person who was convicted of sexual misconduct with a minor while engaged in a dating relationship with the minor no longer must register and update registration information on the registry.

Effective: July 1, 2012.

**Dermody, Steuerwald, Lawson L,
DeLaney**

(SENATE SPONSORS — STEELE, ARNOLD)

January 9, 2012, read first time and referred to Committee on Courts and Criminal Code.
January 23, 2012, amended, reported — Do Pass.
January 26, 2012, read second time, ordered engrossed. Engrossed.
January 31, 2012, read third time, recommitted to Committee of One, amended; passed.
Yeas 93, nays 0.

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Reprinted
February 1, 2012

Second Regular Session 117th General Assembly (2012)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

HOUSE BILL No. 1204

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 11-8-8-4.5, AS ADDED BY P.L.216-2007,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 4.5. (a) Except as provided in section 22 of this
4 chapter, as used in this chapter, "sex offender" means a person
5 convicted of any of the following offenses:
6 (1) Rape (IC 35-42-4-1).
7 (2) Criminal deviate conduct (IC 35-42-4-2).
8 (3) Child molesting (IC 35-42-4-3).
9 (4) Child exploitation (IC 35-42-4-4(b)).
10 (5) Vicarious sexual gratification (including performing sexual
11 conduct in the presence of a minor) (IC 35-42-4-5).
12 (6) Child solicitation (IC 35-42-4-6).
13 (7) Child seduction (IC 35-42-4-7).
14 (8) Sexual misconduct with a minor as a Class A, Class B, or
15 Class C felony (IC 35-42-4-9), unless:
16 (A) the person is convicted of sexual misconduct with a minor
17 as a Class C felony;

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

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1 (c) In making a determination under subsection (b)(2)(C), the court
 2 shall consider expert testimony concerning whether a child is likely to
 3 repeat an act that would be an offense described in subsection (a) if
 4 committed by an adult.

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

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

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- 1 than eighteen (18) years of age.
 2 (18) Murder (IC 35-42-1-1).
 3 (19) Voluntary manslaughter (IC 35-42-1-3).
 4 **(20) Sexual misconduct by a service provider (IC 35-44-1-5).**
 5 ~~(20) (21)~~ An attempt or conspiracy to commit a crime listed in
 6 subdivisions (1) through ~~(19)~~: **(20)**.
 7 ~~(21) (22)~~ A crime under the laws of another jurisdiction,
 8 including a military court, that is substantially equivalent to any
 9 of the offenses listed in subdivisions (1) through ~~(20)~~: **(21)**.
 10 (b) The term includes:
 11 (1) a person who is required to register as a sex or violent
 12 offender in any jurisdiction; and
 13 (2) a child who has committed a delinquent act and who:
 14 (A) is at least fourteen (14) years of age;
 15 (B) is on probation, is on parole, is discharged from a facility
 16 by the department of correction, is discharged from a secure
 17 private facility (as defined in IC 31-9-2-115), or is discharged
 18 from a juvenile detention facility as a result of an adjudication
 19 as a delinquent child for an act that would be an offense
 20 described in subsection (a) if committed by an adult; and
 21 (C) is found by a court by clear and convincing evidence to be
 22 likely to repeat an act that would be an offense described in
 23 subsection (a) if committed by an adult.
 24 (c) In making a determination under subsection (b)(2)(C), the court
 25 shall consider expert testimony concerning whether a child is likely to
 26 repeat an act that would be an offense described in subsection (a) if
 27 committed by an adult.
 28 SECTION 3. IC 11-8-8-22, AS AMENDED BY P.L.103-2010,
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2012]: Sec. 22. (a) As used in this section, "offender" means
 31 a sex offender (as defined in section 4.5 of this chapter), ~~and~~ a sex or
 32 violent offender (as defined in section 5 of this chapter), ~~and a~~
 33 **sexually violent predator (as defined in section 6 of this chapter).**
 34 (b) Subsection (g) applies to an offender required to register under
 35 this chapter if, due to a change in federal or state law after June 30,
 36 2007, an individual who engaged in the same conduct as the offender:
 37 (1) would not be required to register under this chapter; or
 38 (2) would be required to register under this chapter but under less
 39 restrictive conditions than the offender is required to meet.
 40 (c) A person to whom this section applies may petition a court to:
 41 (1) remove the person's designation as an offender; or
 42 (2) require the person to register under less restrictive conditions.

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1 (d) A petition under this section shall be filed in the circuit or
2 superior court of the county in which the offender resides. If the
3 offender resides in more than one (1) county, the petition shall be filed
4 in the circuit or superior court of the county in which the offender
5 resides the greatest time. If the offender does not reside in Indiana, the
6 petition shall be filed in the circuit or superior court of the county
7 where the offender is employed the greatest time. If the offender does
8 not reside or work in Indiana, but is a student in Indiana, the petition
9 shall be filed in the circuit or superior court of the county where the
10 offender is a student. If the offender is not a student in Indiana and does
11 not reside or work in Indiana, the petition shall be filed in the county
12 where the offender was most recently convicted of a crime listed in
13 section 5 of this chapter.

14 (e) After receiving a petition under this section, the court may:

15 (1) summarily dismiss the petition; or

16 (2) give notice to:

17 (A) the department;

18 (B) the attorney general;

19 (C) the prosecuting attorney of:

20 (i) the county where the petition was filed;

21 (ii) the county where offender was most recently convicted
22 of an offense listed in section 5 of this chapter; and

23 (iii) the county where the offender resides; and

24 (D) the sheriff of the county where the offender resides;

25 and set the matter for hearing. The date set for a hearing must not be
26 less than sixty (60) days after the court gives notice under this
27 subsection.

28 (f) If a court sets a matter for a hearing under this section, the
29 prosecuting attorney of the county in which the action is pending shall
30 appear and respond, unless the prosecuting attorney requests the
31 attorney general to appear and respond and the attorney general agrees
32 to represent the interests of the state in the matter. If the attorney
33 general agrees to appear, the attorney general shall give notice to:

34 (A) the prosecuting attorney; and

35 (B) the court.

36 (g) A court may grant a petition under this section if, following a
37 hearing, the court makes the following findings:

38 (1) The law requiring the petitioner to register as an offender has
39 changed since the date on which the petitioner was initially
40 required to register.

41 (2) If the petitioner who was required to register as an offender
42 before the change in law engaged in the same conduct after the

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1 change in law occurred, the petitioner would:

2 (A) not be required to register as an offender; or

3 (B) be required to register as an offender, but under less
4 restrictive conditions.

5 (3) If the petitioner seeks relief under this section because a
6 change in law makes a previously unavailable defense available
7 to the petitioner, that the petitioner has proved the defense.

8 The court has the discretion to deny a petition under this section, even
9 if the court makes the findings under this subsection.

10 (h) The petitioner has the burden of proof in a hearing under this
11 section.

12 (i) If the court grants a petition under this section, the court shall
13 notify:

14 (1) the victim of the offense, if applicable;

15 (2) the department of correction; and

16 (3) the local law enforcement authority of every county in which
17 the petitioner is currently required to register.

18 (j) An offender may base a petition filed under this section on a
19 claim that the application or registration requirements constitute ex
20 post facto punishment.

21 (k) A petition filed under this section must:

22 (1) be submitted under the penalties of perjury;

23 (2) list each of the offender's criminal convictions and state for
24 each conviction:

25 (A) the date of the judgment of conviction;

26 (B) the court that entered the judgment of conviction;

27 (C) the crime that the offender pled guilty to or was convicted
28 of; and

29 (D) whether the offender was convicted of the crime in a trial
30 or pled guilty to the criminal charges; and

31 (3) list each jurisdiction in which the offender is required to
32 register as a sex offender or a violent offender.

33 **(l) If a court grants a petition filed under this section, the**
34 **offender is entitled only to the relief described in section 23 of this**
35 **chapter.**

36 **(m)** The attorney general may initiate an appeal from any order
37 granting an offender relief under this section.

38 SECTION 4. IC 11-8-8-23 IS ADDED TO THE INDIANA CODE
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
40 1, 2012]: **Sec. 23. (a) As used in this section, "offender" has the**
41 **meaning set forth in section 22(a) of this chapter.**

42 **(b) If a court grants an offender's petition filed under section 22**

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1 of this chapter, an offender's duty to register expires due to the
 2 passage of time, or an offender's duty to register under section 7(a)
 3 of this chapter has ended due to a change in the offender's place of
 4 residence, employment, vocation, or educational enrollment, the
 5 offender, except as provided in subsections (c) or (d), is not entitled
 6 to have any information changed or removed from the Indiana sex
 7 and violent offender registry.

8 (c) The address of an offender described in subsection (b) shall
 9 be removed from the public portal of the Indiana sex and violent
 10 offender registry. However, the offender's address shall remain
 11 available to the department and to law enforcement authorities.

12 (d) If:

13 (1) an offender is required to register under this chapter
 14 because the offender was convicted of the offense of sexual
 15 misconduct with a minor (IC 35-42-4-9);

16 (2) the court grants a petition under section 22(g) of this
 17 chapter filed by the offender; and

18 (3) when the court grants the petition, the court finds that:

19 (A) the offender was not more than four (4) years older
 20 than the victim at the time of the offense;

21 (B) the relationship between the offender and the victim
 22 was a dating relationship or an ongoing personal
 23 relationship, not including a family relationship, at the
 24 time of the offense;

25 (C) the offense:

26 (i) was not committed by an offender who was at least
 27 twenty-one (21) years of age at the time of the offense;

28 (ii) was not committed by using or threatening the use of
 29 deadly force;

30 (iii) was not committed while armed with a deadly
 31 weapon;

32 (iv) did not result in serious bodily injury;

33 (v) was not facilitated by furnishing the victim, without
 34 the victim's knowledge, with a drug (as defined in
 35 IC 16-42-19-2(1)) or a controlled substance (as defined in
 36 IC 35-48-1-9) or knowing that the victim was furnished
 37 with the drug or controlled substance without the
 38 victim's knowledge; and

39 (vi) was not committed by an offender who had a
 40 position of authority or substantial influence over the
 41 victim at the time of the offense; and

42 (D) the offender has not committed another sex offense (as

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1 defined in section 5.2 of this chapter) (including a
 2 delinquent act that would be a sex offense if committed by
 3 an adult) against any other person;
 4 the court shall order that the offender is no longer required to
 5 register or update the offender's registration under this chapter as
 6 provided in subsection (b), notwithstanding sections 4.5(a)(8) and
 7 5(a)(8) of this chapter, and the court shall order that all
 8 information concerning the offender shall be removed from the
 9 Indiana sex and violent offender registry.
 10 (f) If an offender is no longer required to update the offender's
 11 registration under this chapter, any information concerning the
 12 offender that remains available for public inspection on the
 13 Indiana sex and violent offender registry shall prominently
 14 display:
 15 (1) the last date the information was updated; and
 16 (2) if the information includes a photograph of the offender:
 17 (A) the date the photograph was made available for public
 18 inspection; and
 19 (B) the age of the offender on the date the photograph was
 20 taken.
 21 SECTION 5. IC 35-38-8-1, AS ADDED BY P.L.194-2011,
 22 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2012]: Sec. 1. This chapter does not apply to a sex or violent
 24 offender, **including a sex or violent offender who is no longer**
 25 **required to register**, unless the offender's status as a sex or violent
 26 offender is solely due to the offender's conviction for sexual
 27 misconduct with a minor (IC 35-42-4-9) and the offender proves that
 28 the defense described in IC 35-42-4-9(e) applies to the offender.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1204, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 11-8-8-4.5, AS ADDED BY P.L.216-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4.5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), unless:
 - (A) the person is convicted of sexual misconduct with a minor as a Class C felony;
 - (B) the person is not more than:
 - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
 - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (IC 35-42-4-4(c)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.

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(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).

(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.

(18) Sexual misconduct by a service provider (IC 35-44-1-5).

~~(18)~~ **(19)** An attempt or conspiracy to commit a crime listed in subdivisions (1) through ~~(17)~~: **(18)**.

~~(19)~~ **(20)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(18)~~: **(19)**.

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

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

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

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(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), unless:

(A) the person is convicted of sexual misconduct with a minor as a Class C felony;

(B) the person is not more than:

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

(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (IC 35-42-4-4(c)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.

(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).

(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.

(18) Murder (IC 35-42-1-1).

(19) Voluntary manslaughter (IC 35-42-1-3).

(20) Sexual misconduct by a service provider (IC 35-44-1-5).

~~(20)~~ **(21)** An attempt or conspiracy to commit a crime listed in subdivisions (1) through ~~(19)~~: **(20)**.

~~(21)~~ **(22)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(20)~~: **(21)**.

(b) The term includes:

(1) a person who is required to register as a sex or violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged

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from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult."

Page 3, delete lines 40 through 42, begin a new paragraph and insert:

"(b) If a court grants an offender's petition filed under section 22 of this chapter, an offender's duty to register expires due to the passage of time, or an offender's duty to register under section 7(a) of this chapter has ended due to a change in the offender's place of residence, employment, vocation, or educational enrollment:

(1) the offender is no longer:

(A) required to:

(i) register; or

(ii) update the offender's registration;

under sections 4, 7, 8, and 14 of this chapter;

(B) required to report to a local law enforcement authority if the offender:

(i) changes the offender's residence address or the place where the offender stays in Indiana;

(ii) changes the offender's place of employment, place of vocation, or campus or location where the offender is enrolled in school; or

(iii) changes or obtains a new electronic mail address, instant messaging username, electronic chat room username, or social networking web site username;

under section 11 of this chapter;

(C) required to:

(i) register with a local law enforcement authority if the offender resides in a temporary residence; or

(ii) if the offender does not have a principal residence or temporary residence, report to a local law enforcement authority to report an address for the location where the offender will stay during the time in which the offender lacks a principal address or temporary residence;

under section 12 of this chapter;

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(D) required to obtain and keep in the offender's possession:

(i) a valid Indiana driver's license or a valid Indiana identification card if the offender is a resident of Indiana; or

(ii) if the offender is not a resident of Indiana, a valid driver's license or a valid state issued identification card issued by the state in which the offender resides;

under section 15 of this chapter;

(E) prohibited from petitioning for a change of name and no longer required to register after a name change due to marriage under section 16 of this chapter; and

(F) required to inform local law enforcement authorities when the offender will be absent from the offender's principal residence for more than seventy-two (72) hours under section 18 of this chapter; and

(2) the local law enforcement authority that has jurisdiction over the area of the offender's principal address or location is no longer required to:

(A) mail a form to the offender; and

(B) personally visit the offender;

to verify the offender's current residence under section 13 of this chapter."

Page 4, delete lines 1 through 7.

Page 4, line 8, delete "subsection (d)," and insert "**subsections (d) and (e),**".

Page 4, line 10, after "sex" insert "**and violent**".

Page 4, line 12, after "sex" insert "**and violent**".

Page 4, delete lines line 16 through 19, begin a new paragraph and insert:

"(e) If:

(1) an offender is required to register under this chapter because the offender was convicted of the offense of sexual misconduct with a minor (IC 35-42-4-9);

(2) the court grants a petition under section 22(g) of this chapter filed by the offender; and

(3) when the court grants the petition, the court finds that:

(A) the offender was not more than four (4) years older than the victim at the time of the offense;

(B) the relationship between the offender and the victim was a dating relationship or an ongoing personal relationship, not including a family relationship, at the

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time of the offense;

(C) the offense:

- (i) was not committed by an offender who was at least twenty-one (21) years of age at the time of the offense;**
- (ii) was not committed by using or threatening the use of deadly force;**
- (iii) was not committed while armed with a deadly weapon;**
- (iv) did not result in serious bodily injury;**
- (v) 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**
- (vi) was not committed by an offender who had a position of authority or substantial influence over the victim at the time of the offense; and**

(D) the offender has not committed another sex offense (as defined in section 5.2 of this chapter) (including a delinquent act that would be a sex offense if committed by an adult) against any other person;

the court shall order that the offender is no longer required to register or update the offender's registration under this chapter as provided in subsection (b), notwithstanding sections 4.5(a)(8) and 5(a)(8) of this chapter, and the court shall order that all information concerning the offender shall be removed from the Indiana sex and violent offender registry.

(f) If an offender is no longer required to update the offender's registration under this chapter, any information concerning the offender that remains available for public inspection on the Indiana sex and violent offender registry shall prominently display:

- (1) the last date the information was updated; and**
- (2) if the information includes a photograph of the offender:**
 - (A) the date the photograph was made available for public inspection; and**

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(B) the age of the offender on the date the photograph was taken."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1204 as introduced.)

STEUERWALD, Chair

Committee Vote: yeas 9, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1204 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 7, line 4, delete ":" and insert ",".

Page 7, delete lines 5 through 42.

Page 8, delete lines 1 through 10.

Page 8, line 11, delete "(c) Except" and insert "**the offender, except**".

Page 8, line 11, delete "(d) and (e), an offender" and insert "**(c) or (d),**".

Page 8, line 12, delete "described in subsection (b)".

Page 8, line 15, delete "(d) An" and insert "**(c) The address of an**".

Page 8, line 15, delete "is entitled to have the" and insert "**shall be**".

Page 8, line 16, delete "offender's address".

Page 8, line 16, delete "part" and insert "**public portal**".

Page 8, line 17, delete "that is available to the public." and insert ".".

Page 8, line 20, delete "(e)" and insert "**(d)**".

(Reference is to HB 1204 as printed January 23, 2012.)

DERMODY

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1204, begs leave to report that said bill has been amended as directed.

DERMODY

HB 1204—LS 6731/DI 106+



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