



Reprinted
January 27, 2012

HOUSE BILL No. 1365

DIGEST OF HB 1365 (Updated January 26, 2012 4:01 pm - DI 69)

Citations Affected: IC 31-30; IC 31-37.

Synopsis: Dual juvenile and criminal jurisdiction. Allows a court with criminal jurisdiction to exercise dual jurisdiction of both the criminal laws and juvenile laws concerning: (1) a juvenile offender or delinquent offender if the offender is less than 18 years of age, is waived to the court because the offender committed an act that would be a felony if committed by an adult, and is convicted of committing the felony or enters a plea of guilty to committing the felony; or (2) a directly committed offender if the offender is less than 18 years of age, allegedly committed a felony over which a juvenile court does not have jurisdiction, and is convicted of committing the felony by a court with criminal jurisdiction or enters a plea of guilty to committing the felony with the court. Requires a court that exercises dual jurisdiction concerning a juvenile offender, delinquent offender, or directly committed offender to: (1) enter a juvenile dispositional decree with respect to the offender; (2) impose an appropriate criminal sentence on the offender; and (3) provide that the criminal sentence is suspended and the successful completion of the juvenile dispositional decree is a
(Continued next page)

Effective: July 1, 2012.

**McNamara, Steuerwald, Dermody,
Pierce**

January 11, 2012, read first time and referred to Committee on Courts and Criminal Code.
January 23, 2012, reported — Do Pass.
January 26, 2012, read second time, amended, ordered engrossed.

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condition of the suspended criminal sentence. Provides that when a juvenile offender, delinquent offender, or directly committed offender who has received a suspended criminal sentence becomes 18 years of age, the court must: (1) hold an evaluation hearing concerning the offender before the offender becomes 19 years of age; and (2) based upon the findings of the hearing, discharge offender if the court finds that the objectives of the dispositional decree have been met, order execution of all or part of the offender's suspended criminal sentence in an adult facility, or place the offender in home detention, in a community corrections program, on probation, or in any other appropriate alternative sentencing program.

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

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HOUSE BILL No. 1365

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 31-30-4 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]:
4 **Chapter 4. Dual Juvenile Jurisdiction and Criminal Jurisdiction**
5 **Sec. 1. This chapter applies to the following:**
6 (1) A:
7 (A) juvenile offender; or
8 (B) delinquent offender;
9 who is charged as an adult offender.
10 (2) A directly committed offender who does not come under
11 the jurisdiction of a juvenile court because the offender
12 allegedly violated a statute listed in IC 31-30-1-4.
13 **Sec. 2. (a) If:**
14 (1) a juvenile offender or delinquent offender is:
15 (A) less than eighteen (18) years of age;
16 (B) waived to a court with criminal jurisdiction under
17 IC 31-30-3 because the offender committed an act that

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1 would be a felony if committed by an adult; and
 2 (C) convicted of committing the felony or enters a plea of
 3 guilty to committing the felony; or
 4 (2) a directly committed offender:
 5 (A) is less than eighteen (18) years of age;
 6 (B) allegedly committed a felony over which a juvenile
 7 court does not have jurisdiction under IC 31-30-1-4; and
 8 (C) is convicted of committing the felony by a court with
 9 criminal jurisdiction or enters a plea of guilty to
 10 committing the felony with the court;
 11 the court may exercise dual jurisdiction of both the criminal laws
 12 and juvenile laws concerning the offender as provided in this
 13 chapter.

14 (b) If a court exercises dual jurisdiction concerning a juvenile
 15 offender, delinquent offender, or directly committed offender
 16 under subsection (a), the court shall:

- 17 (1) enter a juvenile dispositional decree with respect to the
- 18 offender under IC 31-37-19;
- 19 (2) impose an appropriate criminal sentence on the offender
- 20 under IC 35-50-2; and
- 21 (3) provide that:
 - 22 (A) the criminal sentence is suspended, notwithstanding
 - 23 IC 35-50-2-2 and IC 35-50-2-2.1; and
 - 24 (B) the successful completion of the juvenile dispositional
 - 25 decree is a condition of the suspended criminal sentence.

26 (c) Subject to sections 4 and 6 of this chapter, the court may
 27 order a juvenile offender, delinquent offender, or directly
 28 committed offender described in subsection (b) into the custody of
 29 the department of correction to be placed in a juvenile facility with
 30 the division of youth services if the department of correction:

- 31 (1) determines that there is space available for the offender in
- 32 the facility; and
- 33 (2) agrees to place the offender in the facility.

34 Sec. 3. (a) If there is probable cause to believe that a juvenile
 35 offender, delinquent offender, or directly committed offender
 36 described under section 2(b) of this chapter has:

- 37 (1) violated a condition of the offender's suspended criminal
- 38 sentence; or
- 39 (2) committed a new offense;

40 the court shall conduct a hearing to determine if the offender has
 41 committed the violation or the new offense unless the offender
 42 waives the hearing.

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1 (b) If the court finds after a hearing conducted under subsection
 2 (a) that the juvenile offender, delinquent offender, or directly
 3 committed offender has violated a condition of the offender's
 4 suspended criminal sentence or committed a new offense or if the
 5 offender waives the hearing, the court may:

6 (1) continue or revoke the offender's juvenile dispositional
 7 decree;

8 (2) order execution of all or part of the offender's suspended
 9 criminal sentence; or

10 (3) enter any other order the court considers appropriate.

11 Sec. 4. (a) The department of correction may reclassify a
 12 juvenile offender, delinquent offender, or directly committed
 13 offender and transfer the offender to an appropriate adult facility
 14 if:

15 (1) the offender has been:

16 (A) placed in the custody of the department of correction;
 17 and

18 (B) placed in a juvenile facility with the division of youth
 19 services of the department of correction;

20 under section 2(c) of this chapter; and

21 (2) the department of correction determines the offender is
 22 beyond the scope of the department's juvenile services.

23 (b) If the department of correction reclassifies and transfers a
 24 juvenile offender, delinquent offender, or directly committed
 25 offender under this section, the department shall notify the court
 26 of the circumstances of the reclassification and transfer.

27 Sec. 5. (a) The department of correction shall provide a progress
 28 report to a court concerning a juvenile offender, delinquent
 29 offender, or directly committed offender at the request of the
 30 court. When a juvenile offender, delinquent offender, or directly
 31 committed offender who has received a suspended criminal
 32 sentence under section 2(b) of this chapter becomes eighteen (18)
 33 years of age:

34 (1) the department shall notify the court; and

35 (2) the court shall hold an evaluation hearing concerning the
 36 offender before the offender becomes nineteen (19) years of
 37 age.

38 (b) Based upon the findings of a hearing conducted under
 39 subsection (a), the court shall:

40 (1) discharge the juvenile offender, delinquent offender, or
 41 directly committed offender if the court finds that the
 42 objectives of the dispositional decree have been met;

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- 1 (2) order execution of all or part of the juvenile offender's,
- 2 delinquent offender's, or directly committed offender's
- 3 suspended criminal sentence in an adult facility; or
- 4 (3) place the juvenile offender, delinquent offender, or
- 5 directly committed offender:
- 6 (A) in home detention under IC 35-38-2.5;
- 7 (B) in a community corrections program under
- 8 IC 35-38-2.6;
- 9 (C) on probation under IC 35-50-7; or
- 10 (D) in any other appropriate alternative sentencing
- 11 program.

12 **Sec. 6. (a) At any time before a juvenile offender, delinquent**
 13 **offender, or directly committed offender becomes twenty-one (21)**
 14 **years of age, the department of correction may transfer the**
 15 **offender to an adult facility if:**

- 16 (1) the offender has been:
- 17 (A) placed in the custody of the department of correction;
- 18 and
- 19 (B) placed in a juvenile facility with the division of youth
- 20 services of the department of correction;
- 21 under section 2(c) of this chapter; and
- 22 (2) the department of correction believes the offender is a
- 23 safety or security risk to:
- 24 (A) the other offenders or the staff at the facility; or
- 25 (B) the public.

26 **(b) If the department of correction transfers a juvenile offender,**
 27 **delinquent offender, or directly committed offender to an adult**
 28 **facility under this section, the department shall notify the court of**
 29 **the circumstances of the transfer.**

30 **Sec. 7. If the suspension of a criminal sentence is revoked under**
 31 **this chapter, all time served by the juvenile offender, delinquent**
 32 **offender, or directly committed offender under a juvenile**
 33 **disposition decree shall be credited toward any criminal sentence**
 34 **imposed on the offender.**

35 SECTION 2. IC 31-37-19-0.5 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2012]: **Sec. 0.5. A reference in this chapter to**
 38 **a juvenile court includes a court with criminal jurisdiction that**
 39 **exercises dual jurisdiction with respect to a juvenile offender,**
 40 **delinquent offender, or directly committed offender under**
 41 **IC 31-30-4.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1365, 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.

STEUERWALD, Chair

Committee Vote: yeas 9, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1365 be amended to read as follows:

Page 1, delete lines 5 through 17, begin a new paragraph and insert: **"Sec. 1. This chapter applies to the following:**

(1) A:

(A) juvenile offender; or

(B) delinquent offender;

who is charged as an adult offender.

(2) A directly committed offender who does not come under the jurisdiction of a juvenile court because the offender allegedly violated a statute listed in IC 31-30-1-4.

Sec. 2. (a) If:

(1) a juvenile offender or delinquent offender is:

(A) less than eighteen (18) years of age;

(B) waived to a court with criminal jurisdiction under IC 31-30-3 because the offender committed an act that would be a felony if committed by an adult; and

(C) convicted of committing the felony or enters a plea of guilty to committing the felony; or

(2) a directly committed offender:

(A) is less than eighteen (18) years of age;

(B) allegedly committed a felony over which a juvenile court does not have jurisdiction under IC 31-30-1-4; and

(C) is convicted of committing the felony by a court with criminal jurisdiction or enters a plea of guilty to committing the felony with the court;"

Page 2, line 5, delete "or" and insert ",".

Page 2, line 5, after "delinquent offender" insert ", or directly committed offender".

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Page 2, line 17, delete "or" and insert ",".

Page 2, line 17, after "delinquent offender" insert ", **or directly committed offender**".

Page 2, line 25, delete "or" and insert ",".

Page 2, line 25, after "delinquent offender" insert ", **or directly committed offender**".

Page 2, line 34, delete "or" and insert ",".

Page 2, line 34, after "delinquent offender" insert ", **or directly committed offender**".

Page 3, line 2, delete "or" and insert ",".

Page 3, line 2, after "delinquent offender" insert ", **or directly committed offender**".

Page 3, line 13, delete "or" and insert ",".

Page 3, line 13, after "delinquent offender" insert ", **or directly committed offender**".

Page 3, delete lines 16 through 20, begin a new paragraph and insert:

"Sec. 5. (a) The department of correction shall provide a progress report to a court concerning a juvenile offender, delinquent offender, or directly committed offender at the request of the court. When a juvenile offender, delinquent offender, or directly committed offender who has received a suspended criminal sentence under section 2(b) of this chapter becomes eighteen (18) years of age:

(1) the department shall notify the court; and

(2) the court shall hold an evaluation hearing concerning the offender before the offender becomes nineteen (19) years of age."

Page 3, line 23, delete "or" and insert ",".

Page 3, line 23, after "delinquent offender" insert ", **or directly committed offender**".

Page 3, line 26, after "offender's" delete "or" and insert ",".

Page 3, line 27, after "offender's" insert ", **or directly committed offender's**".

Page 3, line 29, delete "or" and insert ",".

Page 3, line 29, after "delinquent offender" insert ", **or directly committed offender**".

Page 3, line 36, delete "or" and insert ",".

Page 3, line 37, after "offender" insert ", **or directly committed offender**".

Page 4, line 7, after "offender" insert ",".

Page 4, line 8, delete "or".

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Page 4, line 8, after "offender" insert ", **or directly committed offender**".

Page 4, line 12, delete "or" and insert ",".

Page 4, line 13, after "offender" insert ", **or directly committed offender**".

Page 4, line 19, delete "or" and insert ",".

Page 4, line 20, after "offender" insert ", **or directly committed offender**".

(Reference is to HB 1365 as printed January 23, 2012.)

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