



Reprinted
March 28, 2025

ENGROSSED

SENATE BILL No. 326

DIGEST OF SB 326 (Updated March 27, 2025 11:51 am - DI 106)

Citations Affected: IC 1-1; IC 10-13; IC 11-8; IC 11-13; IC 35-36; IC 35-42; IC 35-49; IC 35-50.

Synopsis: Offenses against children. Replaces the term "child pornography" with the term "child sex abuse material" throughout the Indiana Code. Provides that it is a defense to prosecution of child exploitation and possession of child sex abuse material if a school employee, department of child services employee, or attorney acting in the attorney's capacity as legal counsel: (1) promptly and in good faith notified law enforcement about the image or matter depicting the sexual conduct; and (2) did not duplicate, upload, download, or otherwise transfer the image or matter. Provides that a governmental entity may not organize or host an obscene performance or fund an obscene performance using public funds, and authorizes a person to seek injunctive relief as a remedy for a violation. Specifies the intent of the general assembly concerning P.L.115-2023.

Effective: Upon passage; July 1, 2025.

Freeman, Yoder, Bohacek

(HOUSE SPONSORS — IRELAND, BASCOM, BORDERS, CASH)

January 13, 2025, read first time and referred to Committee on Corrections and Criminal Law.

February 6, 2025, amended, reported favorably — Do Pass.

February 10, 2025, read second time, ordered engrossed. Engrossed.

February 11, 2025, read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

March 3, 2025, read first time and referred to Committee on Courts and Criminal Code.

March 20, 2025, amended, reported — Do Pass.

March 27, 2025, read second time, amended, ordered engrossed.

ES 326—LS 6732/DI 149



Reprinted
March 28, 2025

First Regular Session of the 124th General Assembly (2025)

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 2024 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 326

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

- 1 SECTION 1. IC 1-1-5.5-25 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 25. (a) The general assembly intends**
4 **provisions in P.L.115-2023:**
5 **(1) creating IC 31-30-1-4(d); and**
6 **(2) modifying IC 31-37-1-2;**
7 **to be remedial in nature and to cure a defect in the law. The**
8 **general assembly does not intend these provisions to signify a**
9 **change in or reversal of policy. The general assembly finds strong**
10 **and compelling reasons for these provisions to be applied both**
11 **prospectively and retroactively, so that individuals who commit**
12 **serious crimes may be held accountable. The general assembly has**
13 **always intended that there be a court with jurisdiction to conduct**
14 **proceedings related to the commission of an act defined as a crime**
15 **in the Indiana Code, regardless of whether that act is classified as**
16 **a crime or as a delinquent act.**
17 **(b) The general assembly intends the provisions of P.L.115-2023**

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described in subsection (a) to apply to all cases without regard to whether:

- (1) the proceedings are initiated; or
- (2) the juvenile becomes twenty-one (21) years of age; before, on, or after July 1, 2023.

SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.142-2020, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;
- (2) has:
 - (A) applied for a license or is maintaining a license; and
 - (B) provided criminal history data as required by law to be provided in connection with the license;
- (3) is a candidate for public office or a public official;
- (4) is in the process of being apprehended by a law enforcement agency;
- (5) is placed under arrest for the alleged commission of a crime;
- (6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;
- (7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
- (8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
- (9) is currently residing in a location designated by the department of child services (established by IC 31-25-1-1) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;
- (10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;
- (11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of the division of family resources;
- (12) is being sought by the parent locator service of the child



support bureau of the department of child services;
 (13) is or was required to register as a sex or violent offender
 under IC 11-8-8;

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen
 (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2) (repealed), if the
 victim is less than eighteen (18) years of age.

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

(D) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).

(E) Possession of ~~child pornography~~ **child sex abuse material**
 (IC 35-42-4-4(d) or IC 35-42-4-4(e)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

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

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

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen
 (18) years of age;

(15) is identified as a possible perpetrator of child abuse or
 neglect in an assessment conducted by the department of child
 services under IC 31-33-8; or

(16) is:

(A) a parent, guardian, or custodian of a child; or

(B) an individual who is at least eighteen (18) years of age and
 resides in the home of the parent, guardian, or custodian;

with whom the department of child services or a county probation
 department has a case plan, dispositional decree, or permanency
 plan approved under IC 31-34 or IC 31-37 that provides for
 reunification following an out-of-home placement.

However, limited criminal history information obtained from the
 National Crime Information Center may not be released under this
 section except to the extent permitted by the Attorney General of the
 United States.

(b) A law enforcement agency shall allow inspection of a limited
 criminal history by and release a limited criminal history to the
 following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the
 following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C.



78q(f)(2).

(c) Any person who knowingly or intentionally uses limited criminal history for any purpose not specified under this section commits a Class C infraction. However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 3. IC 11-8-8-4.5, AS AMENDED BY P.L.115-2023, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: 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) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- (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 (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
 - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
 - (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~~ **child sex abuse material** (IC 35-42-4-4(d) or IC 35-42-4-4(e)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).

(15) Promotion of human sexual trafficking under IC 35-42-3.5-1.1.

(16) Promotion of child sexual trafficking under IC 35-42-3.5-1.2(a).

(17) Promotion of sexual trafficking of a younger child (IC 35-42-3.5-1.2(c)).

(18) Child sexual trafficking (IC 35-42-3.5-1.3).

(19) Human trafficking under IC 35-42-3.5-1.4 if the victim is less than eighteen (18) years of age.

(20) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(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, or a person prosecuted under IC 31-30-1-4(d) for an offense described in subsection (a) committed when the person was less than eighteen (18) years of age, but who was at least twenty-one (21) years of age when the charge was filed, 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.

(d) A person ordered to register under subsection (b)(2) may petition the court to reconsider the order at any time after completing court ordered sex offender treatment. The court shall consider expert testimony concerning whether a child or person is likely to repeat an



1 offense described in subsection (a) or an act that would be an offense
2 described in subsection (a) if committed by an adult.

3 SECTION 4. IC 11-8-8-5, AS AMENDED BY P.L.115-2023,
4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2025]: Sec. 5. (a) Except as provided in section 22 of this
6 chapter, as used in this chapter, "sex or violent offender" means a
7 person convicted of any of the following offenses:

- 8 (1) Rape (IC 35-42-4-1).
- 9 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 10 (3) Child molesting (IC 35-42-4-3).
- 11 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- 12 (5) Vicarious sexual gratification (including performing sexual
13 conduct in the presence of a minor) (IC 35-42-4-5).
- 14 (6) Child solicitation (IC 35-42-4-6).
- 15 (7) Child seduction (IC 35-42-4-7).
- 16 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
17 Class B, or Class C felony (for a crime committed before July 1,
18 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
19 crime committed after June 30, 2014), unless:
 - 20 (A) the person is convicted of sexual misconduct with a minor
21 as a Class C felony (for a crime committed before July 1,
22 2014) or a Level 5 felony (for a crime committed after June
23 30, 2014);
 - 24 (B) the person is not more than:
 - 25 (i) four (4) years older than the victim if the offense was
26 committed after June 30, 2007; or
 - 27 (ii) five (5) years older than the victim if the offense was
28 committed before July 1, 2007; and
 - 29 (C) the sentencing court finds that the person should not be
30 required to register as a sex offender.
- 31 (9) Incest (IC 35-46-1-3).
- 32 (10) Sexual battery (IC 35-42-4-8).
- 33 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
34 (18) years of age, and the person who kidnapped the victim is not
35 the victim's parent or guardian.
- 36 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
37 than eighteen (18) years of age, and the person who confined or
38 removed the victim is not the victim's parent or guardian.
- 39 (13) Possession of ~~child pornography~~ **child sex abuse material**
40 (IC 35-42-4-4(d) or IC 35-42-4-4(e)).
- 41 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
42 (for a crime committed before July 1, 2014) or a Level 4 felony



(for a crime committed after June 30, 2014).

(15) Promotion of human sexual trafficking under IC 35-42-3.5-1.1.

(16) Promotion of child sexual trafficking under IC 35-42-3.5-1.2(a).

(17) Promotion of sexual trafficking of a younger child (IC 35-42-3.5-1.2(c)).

(18) Child sexual trafficking (IC 35-42-3.5-1.3).

(19) Human trafficking under IC 35-42-3.5-1.4 if the victim is less than eighteen (18) years of age.

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

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

(22) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(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, or a person prosecuted under IC 31-30-1-4(d) for an offense described in subsection (a) committed when the person was less than eighteen (18) years of age, but who was at least twenty-one (21) years of age when the charge was filed, 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.

(d) A person ordered to register under subsection (b)(2) may petition the court to reconsider the order at any time after completing court ordered sex offender treatment. The court shall consider expert testimony concerning whether a child or person is likely to repeat an offense described in subsection (a) or an act that would be an offense described in subsection (a) if committed by an adult.



SECTION 5. IC 11-13-3-11, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2025 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 11. (a) As used in this section, "Internet crime against a child" means a conviction for a violation of:

- (1) IC 35-42-4-4(b) or IC 35-42-4-4(c) (child exploitation);
- (2) IC 35-42-4-4(d) or IC 35-42-4-4(e) (possession of ~~child pornography~~; **child sex abuse material**); or
- (3) IC 35-42-4-6 (child solicitation).

(b) When a person is placed on lifetime parole, the department shall provide the parolee with a written statement of the conditions of lifetime parole. The parolee shall sign the statement, retain a copy, and provide a copy to the department. The department shall place the signed statement in the parolee's master file.

(c) As a condition of lifetime parole, the parole board shall:

- (1) require a parolee who is a sexually violent predator (as defined in IC 35-38-1-7.5) to:

- (A) inform the parolee's parole agent of any changes to the parolee's residence, employment, or contact information not later than seventy-two (72) hours after the change;

- (B) report to the parole agent as instructed;

- (C) avoid contact with any person who is less than sixteen (16) years of age, unless the parolee receives written authorization from the parole board; and

- (D) avoid contact with the victim of any sex crime committed by that parolee, unless the parolee receives written authorization from the parole board;

- (2) prohibit a parolee who is a sexually violent predator convicted of an Internet crime against a child from:

- (A) accessing or using certain ~~Internet web sites~~, **websites**, chat rooms, or instant messaging programs frequented by children; and

- (B) deleting, erasing, or tampering with data on the parolee's personal computer;

- (3) prohibit a parolee who is a sexually violent predator from owning, operating, managing, being employed by, or volunteering at an attraction designed to be primarily enjoyed by a child less than sixteen (16) years of age; and

- (4) require a parolee to allow the parolee's supervising parole agent or another person authorized by the parole board to visit the parolee's residence, real property, or place of employment.

(d) As a condition of lifetime parole, the parole board may require



1 a sexually violent predator to participate in a sex offender treatment
2 program approved by the parole board.

3 (e) As a condition of lifetime parole, the parole board may require
4 a parolee who is:

5 (1) a sexually violent predator; or

6 (2) required to register as a sex or violent offender under
7 IC 11-8-8-5 due to a conviction for murder (IC 35-42-1-1) or
8 voluntary manslaughter (IC 35-42-1-3);

9 to wear a monitoring device (as described in IC 35-38-2.5-3) that can
10 transmit information twenty-four (24) hours each day regarding a
11 person's precise location, subject to a validated sex offender risk
12 assessment or appropriate violent offender risk assessment, and subject
13 to the amount appropriated to the department for a monitoring program
14 as a condition of lifetime parole.

15 (f) When an offender is placed on lifetime parole, the parole board
16 shall inform the sheriff and the prosecuting attorney of the offender's
17 current county of residence:

18 (1) that the offender has been placed on lifetime parole; and

19 (2) whether the offender is required to wear a monitoring device
20 as described in subsection (e).

21 (g) The parole board may adopt rules under IC 4-22-2 to impose
22 additional conditions of lifetime parole and to implement this section.

23 SECTION 6. IC 35-36-10-2, AS AMENDED BY P.L.13-2016,
24 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2025]: Sec. 2. As used in this chapter, "~~child pornography~~"
26 "**child sex abuse material**" includes:

27 (1) material described in IC 35-42-4-4(d); and

28 (2) material defined in 18 U.S.C. 2256(8).

29 SECTION 7. IC 35-36-10-3, AS ADDED BY P.L.148-2011,
30 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2025]: Sec. 3. In any criminal proceeding, material
32 constituting ~~child pornography~~ **child sex abuse material** must remain
33 in the custody of the state or the court.

34 SECTION 8. IC 35-36-10-4, AS ADDED BY P.L.148-2011,
35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2025]: Sec. 4. A court shall deny any request by the defendant
37 in a criminal proceeding to copy, photograph, duplicate, or otherwise
38 reproduce any material that constitutes ~~child pornography~~ **child sex**
39 **abuse material** if the state provides ample opportunity for inspection,
40 viewing, and examination of the material by:

41 (1) the defendant;

42 (2) the defendant's attorney; and



(3) any individual the defendant seeks to qualify as an expert; at a state or local court or law enforcement facility as provided in section 5 of this chapter.

SECTION 9. IC 35-36-10-5, AS ADDED BY P.L.148-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 5. (a) A court may permit a defendant to inspect, view, and examine material that constitutes ~~child pornography~~ **child sex abuse material** at a state or local court or law enforcement facility if the defendant demonstrates that inspecting, viewing, and examining the material is necessary to the defendant's defense.

(b) If a court permits a defendant to inspect, view, and examine material that constitutes ~~child pornography~~, **child sex abuse material**, the court shall issue a protective order under Indiana Trial Rule 26 with respect to the material. The protective order must:

- (1) specifically describe which persons may have access to the material, and prohibit any person not described in the order from having access to the material;
- (2) permit only those persons whose access to the material is necessary for the purposes described in subsection (a) to have access to the material;
- (3) prohibit the further dissemination of the material; and
- (4) prohibit the defendant from having direct access to the material.

The protective order may include any other provision to safeguard the material.

SECTION 10. IC 35-42-4-4, AS AMENDED BY P.L.172-2022, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 4. (a) The following definitions apply throughout this section:

- (1) "Disseminate" means to transfer possession for free or for a consideration.
- (2) "Image" means the following:
 - (A) A picture.
 - (B) A drawing.
 - (C) A photograph.
 - (D) A negative image.
 - (E) An undeveloped film.
 - (F) A motion picture.
 - (G) A videotape.
 - (H) A digitized image.
 - (I) A computer generated image.
 - (J) Any pictorial representation.



(3) "Matter" has the same meaning as in IC 35-49-1-3.

(4) "Performance" has the same meaning as in IC 35-49-1-7.

(5) "Sexual conduct" means:

(A) sexual intercourse;

(B) other sexual conduct (as defined in IC 35-31.5-2-221.5);

(C) exhibition of the:

(i) uncovered genitals; or

(ii) female breast with less than a fully opaque covering of any part of the nipple;

intended to satisfy or arouse the sexual desires of any person;

(D) sadomasochistic abuse;

(E) sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with an animal; or

(F) any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

(b) A person who:

(1) knowingly or intentionally manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;

(2) knowingly or intentionally disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age;

(3) knowingly or intentionally makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age;

(4) with the intent to satisfy or arouse the sexual desires of any person:

(A) knowingly or intentionally:

(i) manages;

(ii) produces;

(iii) sponsors;

(iv) presents;

(v) exhibits;

(vi) photographs;

(vii) films;

(viii) videotapes; or

(ix) creates a digitized image of;



any performance or incident that includes the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age;

(B) knowingly or intentionally:

(i) disseminates to another person;

(ii) exhibits to another person;

(iii) offers to disseminate or exhibit to another person; or

(iv) sends or brings into Indiana for dissemination or exhibition;

matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age; or

(C) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age; or

(5) knowingly or intentionally produces, disseminates, or possesses with intent to disseminate an image that depicts or describes sexual conduct:

(A) by a child who the person knows is less than eighteen (18) years of age;

(B) by a child less than eighteen (18) years of age, or by a person who appears to be a child less than eighteen (18) years of age, if the image is obscene (as described in IC 35-49-2-1); or

(C) that is simulated sexual conduct involving a representation that appears to be a child less than eighteen (18) years of age, if the representation of the image is obscene (as described in IC 35-49-2-1);

commits child exploitation, a Level 5 felony. It is not a required element of an offense under subdivision (5)(C) that the child depicted actually exists.

(c) However, the offense of child exploitation described in subsection (b) is a Level 4 felony if:

(1) the sexual conduct, matter, performance, or incident depicts or describes a child less than eighteen (18) years of age who:

(A) engages in bestiality (as described in IC 35-46-3-14);



- 1 (B) is mentally disabled or deficient;
- 2 (C) participates in the sexual conduct, matter, performance, or
- 3 incident by use of force or the threat of force;
- 4 (D) physically or verbally resists participating in the sexual
- 5 conduct, matter, performance, or incident;
- 6 (E) receives a bodily injury while participating in the sexual
- 7 conduct, matter, performance, or incident; or
- 8 (F) is less than twelve (12) years of age; or
- 9 (2) the child less than eighteen (18) years of age:
- 10 (A) engages in bestiality (as described in IC 35-46-3-14);
- 11 (B) is mentally disabled or deficient;
- 12 (C) participates in the sexual conduct, matter, performance, or
- 13 incident by use of force or the threat of force;
- 14 (D) physically or verbally resists participating in the sexual
- 15 conduct, matter, performance, or incident;
- 16 (E) receives a bodily injury while participating in the sexual
- 17 conduct, matter, performance, or incident; or
- 18 (F) is less than twelve (12) years of age.
- 19 (d) A person who, with intent to view the image, knowingly or
- 20 intentionally possesses or accesses an image that depicts or describes
- 21 sexual conduct:
- 22 (1) by a child who the person knows is less than eighteen (18)
- 23 years of age;
- 24 (2) by a child less than eighteen (18) years of age, or by a person
- 25 who appears to be a child less than eighteen (18) years of age, if
- 26 the representation of the image is obscene (as described in
- 27 IC 35-49-2-1); or
- 28 (3) that is simulated sexual conduct involving a representation
- 29 that appears to be a child less than eighteen (18) years of age, if
- 30 the representation of the image is obscene (as described in
- 31 IC 35-49-2-1);
- 32 commits possession of ~~child pornography~~, **child sex abuse material**,
- 33 a Level 6 felony. It is not a required element of an offense under
- 34 subdivision (3) that the child depicted actually exists.
- 35 (e) However, the offense of possession of ~~child pornography~~ **child**
- 36 **sex abuse material** described in subsection (d) is a Level 5 felony if:
- 37 (1) the sexual conduct, matter, performance, or incident depicts
- 38 or describes a child who the person knows is less than eighteen
- 39 (18) years of age, or who appears to be less than eighteen (18)
- 40 years of age, who:
- 41 (A) engages in bestiality (as described in IC 35-46-3-14);
- 42 (B) is mentally disabled or deficient;



- 1 (C) participates in the sexual conduct, matter, performance, or
- 2 incident by use of force or the threat of force;
- 3 (D) physically or verbally resists participating in the sexual
- 4 conduct, matter, performance, or incident;
- 5 (E) receives a bodily injury while participating in the sexual
- 6 conduct, matter, performance, or incident; or
- 7 (F) is less than twelve (12) years of age; or
- 8 (2) the child less than eighteen (18) years of age:
- 9 (A) engages in bestiality (as described in IC 35-46-3-14);
- 10 (B) is mentally disabled or deficient;
- 11 (C) participates in the sexual conduct, matter, performance, or
- 12 incident by use of force or the threat of force;
- 13 (D) physically or verbally resists participating in the sexual
- 14 conduct, matter, performance, or incident;
- 15 (E) receives a bodily injury while participating in the sexual
- 16 conduct, matter, performance, or incident; or
- 17 (F) is less than twelve (12) years of age.
- 18 (f) Subsections (b), (c), (d), and (e) do not apply to a bona fide
- 19 school, museum, or public library that qualifies for certain property tax
- 20 exemptions under IC 6-1.1-10, or to an employee of such a school,
- 21 museum, or public library acting within the scope of the employee's
- 22 employment when the possession of the listed materials is for
- 23 legitimate scientific or educational purposes.
- 24 (g) It is a defense to a prosecution under this section that:
- 25 (1) the person is a school employee, a department of child
- 26 services employee, or an attorney acting in the attorney's capacity
- 27 as legal counsel for a client; ~~and~~
- 28 (2) the acts constituting the elements of the offense were
- 29 performed solely within the scope of the person's employment as
- 30 a school employee, a department of child services employee, or
- 31 an attorney acting in the attorney's capacity as legal counsel for a
- 32 client;
- 33 **(3) the person promptly and in good faith notified law**
- 34 **enforcement about the image or matter that depicts or**
- 35 **describes sexual conduct by a child under eighteen (18) years**
- 36 **of age; and**
- 37 **(4) the person did not duplicate, upload, download, or**
- 38 **otherwise transfer the image or matter.**
- 39 (h) Except as provided in subsection (i), it is a defense to a
- 40 prosecution under subsection (b), (c), (d), or (e) if all of the following
- 41 apply:
- 42 (1) A cellular telephone, another wireless or cellular



communications device, or a social networking ~~web site~~ **website** was used to possess, produce, or disseminate the image.

(2) The defendant is not more than four (4) years older or younger than the person who is depicted in the image or who received the image.

(3) The relationship between the defendant and the person who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.

(4) The crime was committed by a person less than twenty-two (22) years of age.

(5) The person receiving the image or who is depicted in the image acquiesced in the defendant's conduct.

(i) The defense to a prosecution described in subsection (h) does not apply if:

(1) the person who receives the image disseminates it to a person other than the person:

(A) who sent the image; or

(B) who is depicted in the image;

(2) the image is of a person other than the person who sent the image or received the image; or

(3) the dissemination of the image violates:

(A) a protective order to prevent domestic or family violence or harassment issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(B) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

(C) a workplace violence restraining order issued under IC 34-26-6;

(D) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(E) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under



- 1 IC 35-33-8-3.6;
- 2 (F) a no contact order issued as a condition of probation;
- 3 (G) a protective order to prevent domestic or family violence
- 4 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2
- 5 before their repeal);
- 6 (H) a protective order to prevent domestic or family violence
- 7 issued under IC 31-14-16-1 in a paternity action;
- 8 (I) a no contact order issued under IC 31-34-25 in a child in
- 9 need of services proceeding or under IC 31-37-25 in a juvenile
- 10 delinquency proceeding;
- 11 (J) an order issued in another state that is substantially similar
- 12 to an order described in clauses (A) through (I);
- 13 (K) an order that is substantially similar to an order described
- 14 in clauses (A) through (I) and is issued by an Indian:
- 15 (i) tribe;
- 16 (ii) band;
- 17 (iii) pueblo;
- 18 (iv) nation; or
- 19 (v) organized group or community, including an Alaska
- 20 Native village or regional or village corporation as defined
- 21 in or established under the Alaska Native Claims Settlement
- 22 Act (43 U.S.C. 1601 et seq.);
- 23 that is recognized as eligible for the special programs and
- 24 services provided by the United States to Indians because of
- 25 their special status as Indians;
- 26 (L) an order issued under IC 35-33-8-3.2; or
- 27 (M) an order issued under IC 35-38-1-30.
- 28 (j) It is a defense to a prosecution under this section that:
- 29 (1) the person was less than eighteen (18) years of age at the time
- 30 the alleged offense was committed; and
- 31 (2) the circumstances described in IC 35-45-4-6(a)(2) through
- 32 IC 35-45-4-6(a)(4) apply.
- 33 (k) A person is entitled to present the defense described in
- 34 subsection (j) in a pretrial hearing. If a person proves by a
- 35 preponderance of the evidence in a pretrial hearing that the defense
- 36 described in subsection (j) applies, the court shall dismiss the charges
- 37 under this section with prejudice.
- 38 SECTION 11. IC 35-42-4-14, AS AMENDED BY P.L.142-2020,
- 39 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 40 JULY 1, 2025]: Sec. 14. (a) As used in this section, "serious sex
- 41 offender" means a person required to register as a sex offender under
- 42 IC 11-8-8 who is:



(1) found to be a sexually violent predator under IC 35-38-1-7.5;

or

(2) convicted of one (1) or more of the following offenses:

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

(B) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).

(C) Possession of ~~child pornography~~ **child sex abuse material**
(IC 35-42-4-4(d) or IC 35-42-4-4(e)).

(D) Vicarious sexual gratification (IC 35-42-4-5(a) and
IC 35-42-4-5(b)).

(E) Performing sexual conduct in the presence of a minor
(IC 35-42-4-5(c)).

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

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

(H) Sexual misconduct with a minor (IC 35-42-4-9).

(b) A serious sex offender who knowingly or intentionally enters
school property commits unlawful entry by a serious sex offender, a
Level 6 felony.

(c) It is a defense to a prosecution under subsection (b) that:

(1) a religious institution or house of worship is located on the
school property; and

(2) the person:

(A) enters the school property or other entity described in
IC 35-31.5-2-285(1)(A) through IC 35-31.5-2-285(1)(D) when
classes, extracurricular activities, or any other school activities
are not being held:

(i) for the sole purpose of attending worship services or
receiving religious instruction; and

(ii) not earlier than thirty (30) minutes before the beginning
of the worship services or religious instruction; and

(B) leaves the school property not later than thirty (30)
minutes after the conclusion of the worship services or
religious instruction.

SECTION 12. IC 35-49-2-2.5 IS ADDED TO THE INDIANA
CODE AS A **NEW** SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2025]: **Sec. 2.5. A governmental entity may
not knowingly or intentionally:**

(1) organize or host an obscene performance; or

**(2) fund, in whole or part, an obscene performance with
public funds.**

SECTION 13. IC 35-49-2-2.6 IS ADDED TO THE INDIANA
CODE AS A **NEW** SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2025]: **Sec. 2.6. (a) If a governmental entity**



organizes, hosts, or funds an obscene performance in violation of section 2.5 of this chapter, any person may bring an action to seek injunctive relief.

(b) A person who brings an action for injunctive relief under this section and prevails is entitled to:

(1) injunctive relief; and

(2) court costs, reasonable attorney's fees, and other reasonable expenses of litigation.

SECTION 14. IC 35-49-3-3, AS AMENDED BY P.L.234-2023, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 3. (a) Except as provided in subsection (b) and section 4 of this chapter, a person who knowingly or intentionally:

(1) disseminates matter to minors that is harmful to minors (as described in IC 35-49-2);

(2) displays matter that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by the minor's parent or guardian;

(3) sells, rents, or displays for sale or rent to any person matter that is harmful to minors within five hundred (500) feet of the nearest property line of a school or church;

(4) engages in or conducts a performance before minors that is harmful to minors;

(5) engages in or conducts a performance that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by the minor's parent or guardian;

(6) misrepresents the minor's age for the purpose of obtaining admission to an area from which minors are restricted because of the display of matter or a performance that is harmful to minors; or

(7) misrepresents that the person is a parent or guardian of a minor for the purpose of obtaining admission of the minor to an area where minors are being restricted because of display of matter or performance that is harmful to minors;

commits a Level 6 felony.

(b) This section does not apply if a person disseminates, displays, or makes available the matter described in subsection (a) through the Internet, computer electronic transfer, or a computer network unless:

(1) the matter is obscene under IC 35-49-2-1;

(2) the matter is ~~child pornography~~ **child sex abuse material** under IC 35-42-4-4; or

(3) the person distributes the matter to a child less than eighteen



(18) years of age believing or intending that the recipient is a child less than eighteen (18) years of age.

SECTION 15. IC 35-50-2-7, AS AMENDED BY P.L.40-2019, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 7. (a) A person who commits a Class D felony (for a crime committed before July 1, 2014) shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(b) A person who commits a Level 6 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between six (6) months and two and one-half (2 1/2) years, with the advisory sentence being one (1) year. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(c) Notwithstanding subsections (a) and (b), if a person has committed a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014), the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) if:

(1) the court finds that:

(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and

(B) the prior felony was committed less than three (3) years before the second felony was committed;

(2) the offense is domestic battery as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-42-2-1.3; or

(3) the offense is possession of ~~child pornography~~ **child sex abuse material** (IC 35-42-4-4(d)).

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

(d) Notwithstanding subsections (a) and (b), the sentencing court may convert a Class D felony conviction (for a crime committed before July 1, 2014) or a Level 6 felony conviction (for a crime committed after June 30, 2014) to a Class A misdemeanor conviction if, after receiving a verified petition as described in subsection (e) and after conducting a hearing of which the prosecuting attorney has been



1 notified, the court makes the following findings:

2 (1) The person is not a sex or violent offender (as defined in
3 IC 11-8-8-5).

4 (2) The person was not convicted of a Class D felony (for a crime
5 committed before July 1, 2014) or a Level 6 felony (for a crime
6 committed after June 30, 2014) that resulted in bodily injury to
7 another person.

8 (3) The person has not been convicted of perjury under
9 IC 35-44.1-2-1 (or IC 35-44-2-1 before its repeal) or official
10 misconduct under IC 35-44.1-1-1 (or IC 35-44-1-2 before its
11 repeal).

12 (4) The person has not been convicted of domestic battery as a
13 Class D felony (for a crime committed before July 1, 2014) or a
14 Level 6 felony (for a crime committed after June 30, 2014) under
15 IC 35-42-2-1.3 in the fifteen (15) year period immediately
16 preceding the commission of the current offense.

17 (5) At least three (3) years have passed since the person:

18 (A) completed the person's sentence; and

19 (B) satisfied any other obligation imposed on the person as
20 part of the sentence;

21 for the Class D or Level 6 felony.

22 (6) The person has not been convicted of a felony since the
23 person:

24 (A) completed the person's sentence; and

25 (B) satisfied any other obligation imposed on the person as
26 part of the sentence;

27 for the Class D or Level 6 felony.

28 (7) No criminal charges are pending against the person.

29 (e) A petition filed under subsection (d) or (f) must be verified and
30 set forth:

31 (1) the crime the person has been convicted of;

32 (2) the date of the conviction;

33 (3) the date the person completed the person's sentence;

34 (4) any obligations imposed on the person as part of the sentence;

35 (5) the date the obligations were satisfied; and

36 (6) a verified statement that there are no criminal charges pending
37 against the person.

38 (f) If a person whose Class D or Level 6 felony conviction has been
39 converted to a Class A misdemeanor conviction under subsection (d)
40 is convicted of a felony not later than five (5) years after the conversion
41 under subsection (d), a prosecuting attorney may petition a court to
42 convert the person's Class A misdemeanor conviction back to a Class



1 D felony conviction (for a crime committed before July 1, 2014) or a
 2 Level 6 felony conviction (for a crime committed after June 30, 2014).

3 SECTION 16. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 326, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 14, line 11, after "enforcement" insert "**or the department of child services**".

and when so amended that said bill do pass.

(Reference is to SB 326 as introduced.)

FREEMAN, Chairperson

Committee Vote: Yeas 8, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 326, 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 1-1-5.5-25 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) The general assembly intends provisions in P.L.115-2023:**

(1) creating IC 31-30-1-4(d); and

(2) modifying IC 31-37-1-2;

to be remedial in nature and to cure a defect in the law. The general assembly does not intend these provisions to signify a change in or reversal of policy. The general assembly finds strong and compelling reasons for these provisions to be applied both prospectively and retroactively, so that individuals who commit serious crimes may be held accountable. The general assembly has always intended that there be a court with jurisdiction to conduct proceedings related to the commission of an act defined as a crime in the Indiana Code, regardless of whether that act is classified as a crime or as a delinquent act.

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(b) The general assembly intends the provisions of P.L.115-2023 described in subsection (a) to apply to all cases without regard to whether:

- (1) the proceedings are initiated; or**
- (2) the juvenile becomes twenty-one (21) years of age; before, on, or after July 1, 2023."**

Page 17, between lines 10 and 11, begin a new paragraph and insert:
"SECTION 12. IC 35-49-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 2.5. A governmental entity may not knowingly or intentionally:

- (1) organize or host an obscene performance; or**
- (2) fund, in whole or part, an obscene performance with public funds."**

Page 20, after line 4, begin a new paragraph and insert:
"SECTION 14. An emergency is declared for this act."
 Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 326 as printed February 7, 2025.)

MCNAMARA

Committee Vote: yeas 13, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 326 be amended to read as follows:

Page 14, delete lines 24 through 38, begin a new paragraph and insert:

- "(g) It is a defense to a prosecution under this section that:**
- (1) the person is a school employee, a department of child services employee, or an attorney acting in the attorney's capacity as legal counsel for a client; and**
 - (2) the acts constituting the elements of the offense were performed solely within the scope of the person's employment as a school employee, a department of child services employee, or an attorney acting in the attorney's capacity as legal counsel for a client;**

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- (3) the person promptly and in good faith notified law enforcement about the image or matter that depicts or describes sexual conduct by a child under eighteen (18) years of age; and**
- (4) the person did not duplicate, upload, download, or otherwise transfer the image or matter."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 326 as printed March 20, 2025.)

IRELAND

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 326 be amended to read as follows:

Page 17, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 13. IC 35-49-2-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: **Sec. 2.6. (a) If a governmental entity organizes, hosts, or funds an obscene performance in violation of section 2.5 of this chapter, any person may bring an action to seek injunctive relief.**

(b) A person who brings an action for injunctive relief under this section and prevails is entitled to:

- (1) injunctive relief; and**
- (2) court costs, reasonable attorney's fees, and other reasonable expenses of litigation."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 326 as printed March 20, 2025.)

IRELAND

