

APPENDIX 1

Here are the statutes listed in the CHINS categories. The statutes are current as of 2017.

Statutes Referenced in IC 31-34-1-3

IC 35-42-4-1 Rape

Sec. 1. (a) Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with another person or knowingly or intentionally causes another person to perform or submit to other sexual conduct (as defined in IC 35-31.5-2-221.5) when:

- (1) the other person is compelled by force or imminent threat of force;
- (2) the other person is unaware that the sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) is occurring; or
- (3) the other person is so mentally disabled or deficient that consent to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) cannot be given;

commits rape, a Level 3 felony.

(b) An offense described in subsection (a) is a Level 1 felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon;
- (3) it results in serious bodily injury to a person other than a defendant; or
- (4) the commission of the offense is 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.

IC 35-42-4-3 Child molesting

Sec. 3. (a) A person who, with a child under fourteen (14) years of age, knowingly or intentionally performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) commits child molesting, a Level 3 felony. However, the offense is a Level 1 felony if:

- (1) it is committed by a person at least twenty-one (21) years of age;
- (2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;
- (3) it results in serious bodily injury;
- (4) the commission of the offense is 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; or
- (5) it results in the transmission of a dangerous sexually transmitted disease and the person knew that the person was infected with the disease.

(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Level 4 felony. However, the offense is a Level 2 felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon; or
- (3) the commission of the offense is 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.

(c) A person may be convicted of attempted child molesting of an individual at least fourteen (14) years of age if the person believed the individual to be a child under fourteen (14) years of age at the time the person attempted to commit the offense.

(d) It is a defense to a prosecution under this section that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct, unless:

- (1) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;
- (2) the offense results in serious bodily injury; or
- (3) the commission of the offense is 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.

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IC 35-42-4-4 Child exploitation; possession of child pornography; exemptions; defenses

Sec. 4. (a) The following definitions apply throughout this section:

- (1) "Disseminate" means to transfer possession for free or for a consideration.
- (2) "Matter" has the same meaning as in IC 35-49-1-3.
- (3) "Performance" has the same meaning as in IC 35-49-1-7.
- (4) "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; or
- (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;

commits child exploitation, a Level 5 felony.

(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:

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- (A) engages in bestiality (as described in IC 35-46-3-14);
 - (B) is mentally disabled or deficient;
 - (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
 - (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;
 - (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
 - (F) is less than twelve (12) years of age; or
- (2) the child less than eighteen (18) years of age:
- (A) engages in bestiality (as described in IC 35-46-3-14);
 - (B) is mentally disabled or deficient;
 - (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
 - (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;
 - (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
 - (F) is less than twelve (12) years of age.
- (d) A person who knowingly or intentionally possesses or accesses with intent to view:
- (1) a picture;
 - (2) a drawing;
 - (3) a photograph;
 - (4) a negative image;
 - (5) undeveloped film;
 - (6) a motion picture;
 - (7) a videotape;
 - (8) a digitized image; or
 - (9) any pictorial representation;
- that depicts or describes sexual conduct by a child who the person knows is less than eighteen (18) years of age or who appears to be less than eighteen (18) years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Level 6 felony.
- (e) However, the offense of possession of child pornography described in subsection (d) is a Level 5 felony if:
- (1) the item described in subsection (d)(1) through (d)(9) depicts or describes sexual conduct by a child who the person knows is less than eighteen (18) years of age, or who appears to be less than eighteen (18) years of age, who:
 - (A) engages in bestiality (as described in IC 35-46-3-14);
 - (B) is mentally disabled or deficient;
 - (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
 - (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;
 - (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
 - (F) is less than twelve (12) years of age; or
 - (2) the child whose sexual conduct is depicted or described in an item described in subsection (d)(1) through (d)(9):
 - (A) engages in bestiality (as described in IC 35-46-3-14);
 - (B) is mentally disabled or deficient;
 - (C) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;
 - (D) physically or verbally resists participating in the sexual conduct, matter, performance, or incident;
 - (E) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident; or
 - (F) is less than twelve (12) years of age.
- (f) Subsections (b), (c), (d), and (e) do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.
- (g) It is a defense to a prosecution under this section that:
- (1) the person is a school employee; 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.
- (h) Except as provided in subsection (i), it is a defense to a prosecution under subsection (b), (c), (d), or (e) if all of the following apply:
- (1) A cellular telephone, another wireless or cellular communications device, or a social networking web site was used to possess, produce, or disseminate the image.

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- (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 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 IC 35-33-8-3.6;
 - (F) a no contact order issued as a condition of probation;
 - (G) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);
 - (H) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
 - (I) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
 - (J) an order issued in another state that is substantially similar to an order described in clauses (A) through (I);
 - (K) an order that is substantially similar to an order described in clauses (A) through (I) and is issued by an Indian:
 - (i) tribe;
 - (ii) band;
 - (iii) pueblo;
 - (iv) nation; or
 - (v) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;
 - (L) an order issued under IC 35-33-8-3.2; or
 - (M) an order issued under IC 35-38-1-30.
- (j) It is a defense to a prosecution under this section that:
 - (1) the person was less than eighteen (18) years of age at the time the alleged offense was committed; and
 - (2) the circumstances described in IC 35-45-4-6(a)(2) through IC 35-45-4-6(a)(4) apply.
- (k) A person is entitled to present the defense described in subsection (j) in a pretrial hearing. If a person proves by a preponderance of the evidence in a pretrial hearing that the defense described in subsection (j) applies, the court shall dismiss the charges under this section with prejudice.

IC 35-42-4-5 Vicarious sexual gratification; sexual conduct in presence of a minor

Sec. 5. (a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or herself or another child under the age of

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sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Level 5 felony. However, the offense is:

- (1) a Level 4 felony if a child involved in the offense is under the age of fourteen (14); and
- (2) a Level 3 felony if:
 - (A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;
 - (B) the commission of the offense is 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;
 - or
 - (C) the commission of the offense results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

- (1) engage in sexual intercourse with another child under sixteen (16) years of age;
- (2) engage in sexual conduct with an animal other than a human being; or
- (3) engage in other sexual conduct (as defined in IC 35-31.5-2-221.5) with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Level 4 felony. However, the offense is a Level 3 felony if any child involved in the offense is less than fourteen (14) years of age, and the offense is a Level 2 felony if the offense is committed by using or threatening the use of deadly force, if the offense is committed while armed with a deadly weapon, if the offense results in serious bodily injury, or if the commission of the offense is 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.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

- (1) engages in sexual intercourse;
- (2) engages in other sexual conduct (as defined in IC 35-31.5-2-221.5); or
- (3) touches or fondles the person's own body;

in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Level 6 felony.

IC 35-42-4-6 Child solicitation

Sec. 6. (a) As used in this section, "solicit" means to command, authorize, urge, incite, request, or advise an individual:

- (1) in person;
- (2) by telephone or wireless device;
- (3) in writing;
- (4) by using a computer network (as defined in IC 35-43-2-3(a));
- (5) by advertisement of any kind; or
- (6) by any other means;

to perform an act described in subsection (b) or (c).

(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person, commits child solicitation, a Level 5 felony. However, the offense is a Level 4 felony if the person solicits the child or individual the person believes to be a child under fourteen (14) years of age to engage in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) and:

- (1) commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and travels to meet the child or individual the person believes to be a child; or
- (2) has a previous unrelated conviction for committing an offense under this section.

(c) A person at least twenty-one (21) years of age who knowingly or intentionally solicits a child at least fourteen (14) years of age but less than sixteen (16) years of age, or an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age, to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person, commits child solicitation, a Level 5 felony. However, the offense is a Level 4 felony if the person solicits the child or individual the person believes to be a child at least fourteen (14) but

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less than sixteen (16) years of age to engage in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5), and:

- (1) commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and travels to meet the child or individual the person believes to be a child; or
- (2) has a previous unrelated conviction for committing an offense under this section.

(d) In a prosecution under this section, including a prosecution for attempted solicitation, the state is not required to prove that the person solicited the child to engage in an act described in subsection (b) or (c) at some immediate time.

IC 35-42-4-7 Child seduction

Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "charter school" has the meaning set forth in IC 20-18-2-2.5.

(d) As used in this section, "child care worker" means a person who:

(1) provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility;

(2) is employed by a:

- (A) school corporation;
- (B) charter school;
- (C) nonpublic school; or
- (D) special education cooperative;

attended by a child who is the victim of a crime under this chapter; or

(3) is:

(A) affiliated with a:

- (i) school corporation;
- (ii) charter school;
- (iii) nonpublic school; or
- (iv) special education cooperative;

attended by a child who is the victim of a crime under this chapter, regardless of how or whether the person is compensated;

(B) in a position of trust in relation to a child who attends the school; or cooperative;

(C) engaged in the provision of care or supervision to a child who attends the school; or cooperative; and

(D) at least four (4) years older than the child who is the victim of a crime under this chapter.

The term does not include a student who attends the school or cooperative.

(e) As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

(f) As used in this section, "mental health professional" means:

- (1) a mental health counselor licensed under IC 25-23.6-8.5;
- (2) a psychologist; or
- (3) a psychiatrist.

(g) As used in this section, "military recruiter" means a member of:

- (1) the United States Air Force;
- (2) the United States Army;
- (3) the United States Coast Guard;
- (4) the United States Marine Corps;
- (5) the United States Navy;
- (6) any reserve components of the military forces listed in subdivisions (1) through (5); or
- (7) the Indiana National Guard;

whose primary job function, classification, or specialty is recruiting individuals to enlist with an entity listed in subdivisions (1) through (7).

(h) As used in this section, "nonpublic school" has the meaning set forth in IC 20-18-2-12.

(i) For purposes of this section, a person has a "professional relationship" with a child if:

(1) the person:

- (A) has a license issued by the state or a political subdivision on the basis of the person's training and experience that authorizes the person to carry out a particular occupation; or

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(B) is employed in a position in which counseling, supervising, instructing, or recruiting children forms a significant part of the employment; and

(2) the person has a relationship with a child that is based on the person's employment or licensed status as described in subdivision (1).

The term includes a relationship between a child and a mental health professional or military recruiter. The term does not include a coworker relationship between a child and a person described in subdivision (1)(B).

(j) As used in this section, "school corporation" has the meaning set forth in IC 20-18-2-16.

(k) As used in this section, "special education cooperative" has the meaning set forth in IC 20-35-5-1.

(l) As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.

(m) If a person who:

(1) is at least eighteen (18) years of age; and

(2) is the:

(A) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or

(B) child care worker for;

a child at least sixteen (16) years of age but less than eighteen (18) years of age;

engages with the child in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult, the person commits child seduction.

(n) A person who:

(1) has or had a professional relationship with a child at least sixteen (16) years of age but less than eighteen (18) years of age whom the person knows to be at least sixteen (16) years of age but less than eighteen (18) years of age;

(2) may exert undue influence on the child because of the person's current or previous professional relationship with the child; and

(3) uses or exerts the person's professional relationship to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the person;

commits child seduction.

(o) A law enforcement officer who:

(1) is at least five (5) years older than a child who is:

(A) at least sixteen (16) years of age; and

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

(2) has contact with the child while acting within the scope of the law enforcement officer's official duties with respect to the child; and

(3) uses or exerts the law enforcement officer's professional relationship with the child to engage with the child in:

(A) sexual intercourse;

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

(C) any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the law enforcement officer;

commits child seduction.

(p) In determining whether a person used or exerted the person's professional relationship with the child to engage in sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), or any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the person under this section, the trier of fact may consider one (1) or more of the following:

(1) The age difference between the person and the child.

(2) Whether the person was in a position of trust with respect to the child.

(3) Whether the person's conduct with the child violated any ethical obligations of the person's profession or occupation.

(4) The authority that the person had over the child.

(5) Whether the person exploited any particular vulnerability of the child.

(6) Any other evidence relevant to the person's ability to exert undue influence over the child.

(q) Child seduction under this section is:

(1) a Level 6 felony if the person or law enforcement officer engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of:

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- (A) the child; or
- (B) the person or law enforcement officer; and
- (2) a Level 5 felony if the person or law enforcement officer engaged in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the child.

IC 35-42-4-8 Sexual battery

Sec. 8. (a) A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person:

- (1) touches another person when that person is:
 - (A) compelled to submit to the touching by force or the imminent threat of force; or
 - (B) so mentally disabled or deficient that consent to the touching cannot be given; or
- (2) touches another person's genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring;

commits sexual battery, a Level 6 felony.

(b) An offense described in subsection (a) is a Level 4 felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon; or
- (3) the commission of the offense is 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.

IC 35-42-4-9 Sexual misconduct with a minor

Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) commits sexual misconduct with a minor, a Level 5 felony. However, the offense is:

- (1) a Level 4 felony if it is committed by a person at least twenty-one (21) years of age; and
- (2) a Level 1 felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is 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.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Level 6 felony. However, the offense is:

- (1) a Level 5 felony if it is committed by a person at least twenty-one (21) years of age; and
- (2) a Level 2 felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is 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.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(d) It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(e) It is a defense to a prosecution under this section if all the following apply:

- (1) The person is not more than four (4) years older than the victim.
- (2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.
- (3) The crime:
 - (A) was not committed by a person who is at least twenty-one (21) years of age;
 - (B) was not committed by using or threatening the use of deadly force;
 - (C) was not committed while armed with a deadly weapon;
 - (D) did not result in serious bodily injury;

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(E) 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

(F) was not committed by a person having a position of authority or substantial influence over the victim.

(4) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.

IC 35-45-4-1 Public indecency

Sec. 1. (a) A person who knowingly or intentionally, in a public place:

- (1) engages in sexual intercourse;
- (2) engages in other sexual conduct (as defined in IC 35-31.5-2-221.5);
- (3) appears in a state of nudity with the intent to arouse the sexual desires of the person or another person; or
- (4) fondles the person's genitals or the genitals of another person;

commits public indecency, a Class A misdemeanor.

(b) A person at least eighteen (18) years of age who knowingly or intentionally, in a public place, appears in a state of nudity with the intent to be seen by a child less than sixteen (16) years of age commits public indecency, a Class A misdemeanor.

(c) However, the offense under subsection (a) or (b) is a Level 6 felony if the person who commits the offense has a prior unrelated conviction:

- (1) under subsection (a) or (b); or
- (2) in another jurisdiction, including a military court, that is substantially equivalent to an offense described in subsection (a) or (b).

(d) As used in this section, "nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

(e) A person who, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place:

- (1) engages in sexual intercourse;
- (2) engages in other sexual conduct (as defined in IC 35-31.5-2-221.5);
- (3) fondles the person's genitals or the genitals of another person; or
- (4) appears in a state of nudity;

where the person can be seen by persons other than invitees and occupants of that place commits indecent exposure, a Class C misdemeanor.

IC 35-45-4-2 Prostitution

Sec. 2. (a) A person at least eighteen (18) years of age who knowingly or intentionally:

- (1) performs, or offers or agrees to perform, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5); or
- (2) fondles, or offers or agrees to fondle, the genitals of another person;

for money or other property commits prostitution, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has two (2) prior convictions under this section.

(b) It is a defense to a prosecution under this section that the person was a victim or an alleged victim of an offense under IC 35-42-3.5-1 at the time the person engaged in the prohibited conduct.

IC 35-45-4-3 Making an unlawful proposition

Sec. 3. A person who knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person:

- (1) for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the person or with any other person; or
- (2) for having fondled, or on the understanding that the other person will fondle, the genitals of the person or any other person;

commits making an unlawful proposition, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has two (2) prior convictions under this section.

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IC 35-45-4-4 Promoting prostitution

Sec. 4. (a) As used in this section, "juvenile prostitution victim" means a person less than eighteen (18) years of age who engages in juvenile prostitution.

(b) A person who:

- (1) knowingly or intentionally entices or compels another person to become a prostitute or juvenile prostitution victim;
- (2) knowingly or intentionally procures, or offers or agrees to procure, a person for another person for the purpose of prostitution or juvenile prostitution;
- (3) having control over the use of a place, knowingly or intentionally permits another person to use the place for prostitution or juvenile prostitution;
- (4) receives money or other property from a prostitute or juvenile prostitution victim, without lawful consideration, knowing it was earned in whole or in part from prostitution or juvenile prostitution; or
- (5) knowingly or intentionally conducts or directs another person to a place for the purpose of prostitution or juvenile prostitution;

commits promoting prostitution, a Level 5 felony. However, the offense is a Level 4 felony under subdivision (1) if the person enticed or compelled is less than eighteen (18) years of age.

IC 35-46-1-3 Incest

Sec. 3. (a) A person eighteen (18) years of age or older who engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with another person, when the person knows that the other person is related to the person biologically as a parent, child, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew, commits incest, a Level 5 felony. However, the offense is a Level 4 felony if the other person is less than sixteen (16) years of age.

(b) It is a defense that the accused person's otherwise incestuous relation with the other person was based on their marriage, if the marriage was valid where it was entered into.

IC 35-42-3.5-1 Promotion of human trafficking; sexual trafficking of a minor; human trafficking

Sec. 1. (a) A person who, by force, threat of force, or fraud, knowingly or intentionally recruits, harbors, or transports another person:

- (1) to engage the other person in:
 - (A) forced labor; or
 - (B) involuntary servitude; or
- (2) to force the other person into:
 - (A) marriage;
 - (B) prostitution; or
 - (C) participating in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking, a Level 4 felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:

- (1) eighteen (18) years of age with the intent of:
 - (A) engaging the child in:
 - (i) forced labor; or
 - (ii) involuntary servitude; or
 - (B) inducing or causing the child to:
 - (i) engage in prostitution or juvenile prostitution; or
 - (ii) engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) or IC 35-42-4-4(c) (child exploitation); or
- (2) sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor, a Level 3 felony. Except as provided in subsection (e), it is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or juvenile prostitution or to participate in sexual conduct.

(c) A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution, juvenile prostitution, or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor, a Level 2 felony.

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(d) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

- (1) forced labor;
- (2) involuntary servitude; or
- (3) prostitution or juvenile prostitution;

commits human trafficking, a Level 5 felony.

(e) It is a defense to a prosecution under subsection (b)(2) if:

(1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or

(2) all the following apply:

(A) The person is not more than four (4) years older than the victim.

(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(C) The crime:

(i) was not committed by a person who is at least twenty-one (21) years of age;

(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 a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

Statute Referenced in IC 31-34-1-3.5

IC 31-9-2-133.1 "Victim of human or sexual trafficking"

Sec. 133.1. "Victim of human or sexual trafficking", for purposes of IC 31-34-1-3.5, refers to a child who is recruited, harbored, transported, or engaged in:

- (1) forced labor;
- (2) involuntary servitude;
- (3) prostitution;
- (4) juvenile prostitution, as defined in IC 35-31.5-2-178.5;
- (5) child exploitation, as defined in IC 35-42-4-4(b);
- (6) marriage, unless authorized by a court under IC 31-11-1-6; or
- (7) trafficking for the purpose of prostitution, juvenile prostitution, or participation in sexual conduct as defined in IC 35-42-4-4(a)(4).

Statutes Referenced in IC 31-34-1-4

IC 35-49-2-2 Matter or performance harmful to minors

Sec. 2. A matter or performance is harmful to minors for purposes of this article if:

- (1) it describes or represents, in any form, nudity, sexual conduct, sexual excitement, or sado-masochistic abuse;
- (2) considered as a whole, it appeals to the prurient interest in sex of minors;
- (3) it is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable matter for or performance before minors; and
- (4) considered as a whole, it lacks serious literary, artistic, political, or scientific value for minors.

IC 35-49-3-2 Obscene performance

Sec. 2. A person who knowingly or intentionally engages in, participates in, manages, produces, sponsors, presents, exhibits, photographs, films, or videotapes any obscene performance commits a Class A misdemeanor. However, the offense is a Level 6 felony if the obscene performance depicts or describes sexual conduct involving any person who is or appears to be under eighteen (18) years of age.

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Statutes Referenced in IC 31-34-1-5

See IC 35-45-4-1 through 4, which are listed in Statutes Referenced in IC 31-34-1-3. Additional statutes referenced in IC 31-34-1-5 are:

IC 35-45-4-1.5 Public nudity

Sec. 1.5. (a) As used in this section, "nudity" has the meaning set forth in section 1(d) of this chapter.

(b) A person who knowingly or intentionally appears in a public place in a state of nudity commits public nudity, a Class C misdemeanor.

(c) A person who knowingly or intentionally appears in a public place in a state of nudity with the intent to be seen by another person commits a Class B misdemeanor.

(d) A person who knowingly or intentionally appears in a state of nudity:

(1) in or on school grounds;

(2) in a public park; or

(3) with the intent to arouse the sexual desires of the person or another person, in a department of natural resources owned or managed property;

commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this subsection or under subsection (c).

IC 35-45-4-5 Voyeurism; public voyeurism; aerial voyeurism

Sec. 5. (a) The following definitions apply throughout this section:

(1) "Camera" means a camera, a video camera, a device that captures a digital image, or any other type of video recording device.

(2) "Peep" means any looking of a clandestine, surreptitious, prying, or secretive nature.

(3) "Private area" means the naked or undergarment clad genitals, pubic area, or buttocks of an individual.

(b) A person:

(1) who knowingly or intentionally:

(A) peeps; or

(B) goes upon the land of another with the intent to peep; into an occupied dwelling of another person; or

(2) who knowingly or intentionally peeps into an area where an occupant of the area reasonably can be expected to disrobe, including:

(A) restrooms;

(B) baths;

(C) showers; and

(D) dressing rooms;

without the consent of the other person, commits voyeurism, a Class B misdemeanor.

(c) However, the offense under subsection (b) is a Level 6 felony if:

(1) it is knowingly or intentionally committed by means of a camera; or

(2) the person who commits the offense has a prior unrelated conviction:

(A) under this section; or

(B) in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section.

(d) A person who:

(1) without the consent of the individual; and

(2) with intent to peep at the private area of an individual;

peeps at the private area of an individual and records an image by means of a camera commits public voyeurism, a Class A misdemeanor.

(e) The offense under subsection (d) is a Level 6 felony if the person has a prior unrelated conviction under this section or in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section, or if the person:

(1) publishes the image;

(2) makes the image available on the Internet; or

(3) transmits or disseminates the image to another person.

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(f) It is a defense to a prosecution under subsection (d) that the individual deliberately exposed the individual's private area.

(g) A person who, with the intent to peep, operates an unmanned aerial vehicle in a manner that is intended to cause the unmanned aerial vehicle to enter the space above or surrounding another person's occupied dwelling for the purpose of capturing images, photographs, video recordings, or audio recordings of the other person while the other person is:

- (1) within the other person's occupied dwelling; or
- (2) on the land or premises:
 - (A) on which the other person's occupied dwelling is located; and
 - (B) in a location that is not visible from an area:
 - (i) open to the general public; or
 - (ii) where a member of the general public has the right to be;

commits remote aerial voyeurism, a Class A misdemeanor.

(h) The offense under subsection (g) is a Level 6 felony if the person has a prior unrelated conviction under this section or in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section, or if the person:

- (1) publishes the images, photographs, or recordings captured;
- (2) makes the images, photographs, or recordings captured available on the Internet; or
- (3) transmits or disseminates the images, photographs, or recordings captured to another person.

IC 35-45-4-6 Indecent display by a youth

Sec. 6. (a) This section applies only to a person to whom all of the following apply:

- (1) The person is less than eighteen (18) years of age.
- (2) The person is not more than four (4) years older than the individual who is depicted in the image or who received the image.
- (3) The relationship between the person and the individual 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 individual receiving the image or who is depicted in the image acquiesced in the person's conduct.

(b) The following definitions apply throughout this section:

- (1) "Disseminate" means to transfer possession for no direct or indirect consideration.
- (2) "Matter" has the meaning set forth in IC 35-49-1-3.
- (3) "Performance" has the meaning set forth in IC 35-49-1-7.
- (4) "Sexual conduct" means sexual intercourse, other sexual conduct, exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or other sexual conduct with an animal, or 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.

(c) A person who, on or by means of a cellular telephone, social media web site, or another wireless or cellular communications device, knowingly or intentionally:

- (1) produces, presents, exhibits, photographs, records, or creates a digitized image of any performance or incident that includes sexual conduct by a child at least twelve (12) years of age;
- (2) disseminates, exhibits to another person, or offers to disseminate or exhibit to another person, matter that depicts or describes sexual conduct by a child at least twelve (12) years of age; or
- (3) possesses:
 - (A) a picture;
 - (B) a drawing;
 - (C) a photograph;
 - (D) a motion picture;
 - (E) a digitized image; or
 - (F) any pictorial representation;

that depicts or describes sexual conduct by a child at least twelve (12) years of age who the person knows is less than sixteen (16) years of age or who appears to be less than sixteen (16) years of age, and that lacks serious literary, artistic, political, or scientific value;
commits indecent display by a youth, a Class A misdemeanor.

(d) Subsection (c) does not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of that school, museum, or public library acting

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within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.

Statute Referenced in IC 31-34-1-7

IC 20-33-8-26 Rules requiring participation in disciplinary action by person caring for dependent student

Sec. 26. (a) The governing body of a school corporation may adopt rules that require a person having care of a dependent student to participate in an action taken under this chapter in connection with a student's behavior. The rules must include the following:

- (1) Procedures for giving actual notice to the person having care of the dependent student.
- (2) A description of the steps that the person must take to participate in the school corporation's action.
- (3) A description of the additional actions in connection with the student's behavior that are justified in part or in full if the person does not participate in the school corporation's action.

(b) A dependent student is a child in need of services under IC 31-34-1-7 if, before the student child becomes eighteen (18) years of age:

- (1) the student's parent fails to participate in a disciplinary proceeding in connection with the student's improper behavior, as provided for by this section, if the behavior of the student has been repeatedly disruptive in the school; and
- (2) the student needs care, treatment, or rehabilitation that the child:
 - (A) is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

Statute Referenced in IC 31-34-1-8

IC 10-13-5-4 "Missing child"

Sec. 4. As used in this chapter, "missing child" means a person less than eighteen (18) years of age who:

- (1) is, or is believed to be:
 - (A) a temporary or permanent resident of Indiana;
 - (B) at a location that cannot be determined by the person's parent or legal custodian; and
 - (C) reported missing to a law enforcement agency; or
- (2) is, or is believed to be:
 - (A) a temporary or permanent resident of Indiana; and
 - (B) a victim of the offense of criminal confinement (IC 35-42-3-3) or interference with custody (IC 35-42-3-4).