



2020 Legislation Highlights

Attempts, Substantially Similar Crimes, and nonwaivable offenses—The nonwaivable offenses statute at IC 31-9-2-84.8 was amended, deleting subsections (29) and (30). These two subsections pertained to attempts to commit the listed crimes, and crimes that are substantially similar in another jurisdiction. This affects all areas of Title 31 that references nonwaivable crimes.

The statute allowing for the dispensing with of a parent's consent in adoption, IC 31-19-9-8, was amended. IC 31-19-9-8(a)(4)(E) was deleted, which was a provision pertaining to substantially similar crimes of another jurisdiction.

IC 31-19-9-9 and IC 31-19-9-10 both deal with the non-necessity of a parent's consents when the parent has committed certain crimes against the child's other parent, the child, or the child's sibling. Both statutes were amended to remove from the list of crimes attempts of specified crimes, and crimes from another jurisdiction which were substantially similar to the specified crimes.

IC 31-19-11-1 was amended in a similar way, removing from the list of crimes attempts of specified crimes, and crimes from another jurisdiction which were substantially similar to the specified crimes. This statute pertains to a court's ability to grant an adoption, and when certain criminal convictions prevent the granting of an adoption.

IC 31-30-1-2.5 deals with persons who may not be appointed as guardians or custodians of a child in juvenile court. This was amended in a similar way, removing from the list of crimes attempts of specified crimes, and crimes from another jurisdiction which were substantially similar to the specified crimes.

IC 31-34-1-2, which provides for a child to be a CHINS due to the act or omission of a parent, guardian, or custodian which seriously endangers the child's physical or mental health, was amended in a similar way, removing from the list of crimes attempts of specified crimes, and crimes from another jurisdiction which were substantially similar to the specified crimes.

IC 31-34-1-3, which provides for a child to be a CHINS due to being a victim of a specified offense or living with an adult who is convicted of certain offenses, was amended in a similar way, removing from the list crimes from another jurisdiction which were substantially similar to the specified crimes.

IC 31-34-1-3.5, which provides for a child to be a CHINS due to being a victim of human or sexual trafficking, was amended in a similar way, removing from the list crimes from another jurisdiction which were substantially similar to the specified crimes.

Other statutes which were affected by removing attempts to commit specified crimes, or crimes that are substantially similar from another jurisdiction, or both, include:

IC 31-34-4-2 [dealing with permissibility of placement of child with relative caretakers/de facto custodians]

IC 31-34-20-1.5 [Placement of Child in household with certain individuals prohibited]

IC 31-34-21-7.5 [Permanency plans; contents]

IC 29-3-7-7 [Persons prohibited from being appointed as or serving as guardians]

Relocation—amendments were made to the Relocation Statute, IC 31-17-2.2-1. These amendments removed an “and” and made it an “or”. The statute now provides that a relocating individual who is party to a custody order or parenting time order is not required to file a notice of intent to move with the clerk of the court if: (1) the relocation has been addressed by a prior court order; **or** (2) the relocation will: (A) result in a decrease in the distance between the relocating individual's residence and the nonrelocating individual's residence; or (B) result in an increase of not more than 20 miles in the distance between the relocating individual's residence and the nonrelocating individual's residence.

Confidential information—IC 31-33-18-2 added to the list of persons or entities that may be granted access to unredacted and confidential reports and materials described at IC 31-33-18-1. The new addition was a suicide and overdose fatality team established under IC 16-49.5-2, with DCS determining relevancy.

Magistrates, Courts—IC 33-23-5-5, which addressed the powers of a magistrate, was repealed. It was replaced by IC 33-23-5-8.5, which provides that except as otherwise provided (by IC 33-23-5-8), a magistrate has the powers as a judge. Other conforming amendments were made to other statutes.

IC 33-33-49-14 was amended to provide that the work of the court is to be divided into civil, criminal, and family (previously the categories were civil, criminal, probate, and juvenile). Courts are not limited to these categories.

Marriage Age, Emancipation—the minimum age of marriage was raised from 15 to 16.

IC 31-11-1-15 provides that a 16- or 17-year-old may marry only if:

- (1) the individual's intended spouse is not more than four years older than the individual;
- (2) a juvenile court has issued an order allowing the individual to marry; and
- (3) the individual:
 - (A) completes any premarital counseling required under the order;
 - (B) applies for a marriage license not earlier than 15 days after the order is issued; and
 - (C) includes a certified copy of the order with the individual's application for a marriage license.

IC 31-11-1-6 was repealed, which repealed the provisions requiring an individual less than 18 years of age to obtain consent to marry from the individual's parent or guardian.

There is now a specified process for 16- and 17-year olds to follow for marriage, found at IC 31-11-1-7. If a court issues an order allowing an individual at least 16 years of age to marry, the court must also issue an order completely emancipating the individual.

An “adult” defined at IC 31-9-2-7(c) for the purposes of IC 31-11 is: (1) a person at least eighteen years of age; or (2) a: (A) married minor who is at least sixteen years of age; or (B) minor that has been completely emancipated by a court; for the purpose of marriage.

The laws regarding emancipation for minors was amended by extension. IC 31-34-20-6 was amended to provide that a juvenile court may emancipate a child under IC 31-34-20-1(a)(5). The court hearing a minor's petition for emancipation must appoint a guardian ad litem for the minor, and the GAL must investigate the statements contained in the minor's petition and file a report of the investigation with the court. The court may grant the emancipation petition only if the court finds that emancipation is in the child's best interests, as well as other already existing factors.

If the court completely emancipates the child: (A) the child has all the rights and responsibilities of an adult; if the court partially emancipates the child, only then may the court specify terms of emancipation.

Other conforming amendments were made to other statutes.

Depositions, Child Victims, Criminal Law— The amendments to IC 35-31.5-2-40.5, IC 35-40-5-3, IC 35-40-5-11.5, and other statutes make changes to how a child victim is allowed to be deposed in a criminal proceeding. “Child victim” is defined as a child less than 16 years of age who is the victim of a sex offense, and the child victim has the right to confer with a representative of the prosecuting attorney's office before being deposed. A defendant may only depose a child victim if the prosecuting attorney agrees to the deposition or if a court authorizes the deposition. The amendments establish a procedure for a court to use in making determination and for how to allow it to proceed. If a child is to be deposed, the order must expressly prohibit the presence of the person accused of committing the offense against the child unless certain conditions apply and it is necessary to preserve the person's constitutional rights.

Criminal Law and Dependents—criminal statute IC 35-46-1-12 was amended, and conforming amendments were made to provide that it is a crime to self-deal with the property of a dependent on an endangered adult.