

## **IC 35-42-4**

### Chapter 4. Sex Crimes

#### **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 a member of the opposite sex when:

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

commits rape, a Class B felony.

(b) An offense described in subsection (a) is a Class A 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.

*As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.36; P.L.320-1983, SEC.23; P.L.16-1984, SEC.19; P.L.297-1989, SEC.1; P.L.31-1998, SEC.3.*

#### **IC 35-42-4-2**

##### **Criminal deviate conduct**

Sec. 2. (a) A person who knowingly or intentionally causes another person to perform or submit to deviate sexual conduct when:

- (1) the other person is compelled by force or imminent threat of force;
- (2) the other person is unaware that the conduct is occurring; or
- (3) the other person is so mentally disabled or deficient that consent to the conduct cannot be given; commits criminal deviate conduct, a Class B felony.

(b) An offense described in subsection (a) is a Class A 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 any 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.

*As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.37; P.L.320-1983, SEC.24; P.L.183-1984, SEC.3; P.L.31-1998, SEC.4.*

#### **IC 35-42-4-3**

##### **Child molesting**

Sec. 3. (a) A person who, with a child under fourteen (14) years of age, performs or submits

to sexual intercourse or deviate sexual conduct commits child molesting, a Class B felony. However, the offense is a Class A 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; 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.

(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 Class C felony. However, the offense is a Class A 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) It is a defense 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.

*As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.38; Acts 1978, P.L.82, SEC.2; Acts 1981, P.L.301, SEC.1; P.L.79-1994, SEC.12; P.L.33-1996, SEC.8; P.L.216-1996, SEC.18; P.L.31-1998, SEC.5; P.L.216-2007, SEC.42.*

#### **IC 35-42-4-4**

#### **Child exploitation; possession of child pornography; violation classification; exemption; definitions**

Sec. 4. (a) As used in this section:

"Disseminate" means to transfer possession for free or for a consideration.

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

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

"Sexual conduct" means sexual intercourse, deviate sexual conduct, exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or deviate 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.

(b) A person who knowingly or intentionally:

(1) 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) 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; or

(3) 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;

commits child exploitation, a Class C felony.

(c) A person who knowingly or intentionally possesses:

(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 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 possession of child pornography, a Class D felony.

(d) Subsections (b) and (c) 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.

*As added by Acts 1978, P.L.148, SEC.5. Amended by P.L.325-1983, SEC.1; P.L.206-1986, SEC.1; P.L.37-1990, SEC.25; P.L.59-1995, SEC.3; P.L.216-1996, SEC.19; P.L.3-2002, SEC.2; P.L.216-2007, SEC.43.*

#### **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 another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:

(1) a Class C felony if a child involved in the offense is under the age of fourteen (14);

(2) a Class B felony if:

(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or

(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; and

(3) a Class A felony if it 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 deviate sexual conduct with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense 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.

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

(1) engages in sexual intercourse;

(2) engages in deviate sexual conduct; 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 Class D felony.

*As added by P.L.183-1984, SEC.4. Amended by P.L.79-1994, SEC.13; P.L.31-1998, SEC.6; P.L.118-2002, SEC.1; P.L.123-2003, SEC.1.*

## **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;

(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:

(1) sexual intercourse;

(2) deviate sexual conduct; or

(3) any fondling or touching intended to arouse or satisfy the sexual desires of either the

child or the older person; commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).

(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:

(1) sexual intercourse;

(2) deviate sexual conduct; or

(3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person; commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).

(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.

*As added by P.L.183-1984, SEC.5. Amended by P.L.11-1994, SEC.16; P.L.79-1994, SEC.14; P.L.216-1996, SEC.20; P.L.118-2002, SEC.2; P.L.124-2005, SEC.1; P.L.216-2007, SEC.44.*

## **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, "military recruiter" means a member of the armed forces of the United States (as defined in IC 20-33-10-2) or the Indiana National Guard whose primary job function, classification, or specialty is recruiting individuals to enlist with the armed forces of the United States or the Indiana National Guard.

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

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

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

(j) 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.

(k) If a person who:

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

(2) is:

(A) the:

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

(ii) child care worker for; or

(B) a military recruiter who is attempting to enlist;

a child at least sixteen (16) years of age but less than eighteen (18) years of age; engages with the child in sexual intercourse, deviate sexual conduct (as defined in IC 35-41-1-9), 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, a Class D felony.

*As added by P.L. 158-1987, SEC.4. Amended by P.L. 1-1997, SEC.148; P.L. 71-1998, SEC.5; P.L. 228-2001, SEC.5; P.L. 161-2003, SEC. 10; P.L. 1-2005, SEC.228; P.L. 125-2009, SEC.7.*

## **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, touches another person when that person is:

(1) compelled to submit to the touching by force or the imminent threat of force; or

(2) so mentally disabled or deficient that consent to the touching cannot be given;

commits sexual battery, a Class D felony.

(b) An offense described in subsection (a) is a Class C 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. *As added by P.L.322-1987, SEC.2. Amended by P.L.31-1998, SEC.7.*

### **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 deviate sexual conduct commits sexual misconduct with a minor, a Class C felony. However, the offense is:

(1) a Class B felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Class A 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 Class D felony. However, the offense is:

(1) a Class C felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Class B 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;

(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.

*As added by P.L.79-1994, SEC.15. Amended by P.L.33-1996, SEC.9; P.L.216-1996, SEC.21; P.L.31-1998, SEC.8; P.L.266-2003, SEC.1; P.L.216-2007, SEC.45.*

### **IC 35-42-4-10**

#### **Unlawful employment near children**

Sec. 10. (a) As used in this section, "offender against children" means a person who is an offender against children under IC 35-42-4-11.

(b) As used in this section, "sexually violent predator" means a person who is a sexually violent predator under IC 35-38-1-7.5.

(c) A sexually violent predator or an offender against children who knowingly or intentionally works for compensation or as a volunteer:

- (1) on school property;
- (2) at a youth program center; or
- (3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under IC 11-8-8.

*As added by P.L.6-2006, SEC.3; P.L.140-2006, SEC.31 and P.L.173-2006, SEC.31. Amended by P.L.1-2007, SEC.231; P.L.216-2007, SEC.46.*

### **IC 35-42-4-11**

#### **Sex offender residency restrictions**

Sec. 11. (a) As used in this section, and except as provided in subsection (d), "offender against children" means a person required to register as a sex or violent offender under IC 11-8-8 who has been:

- (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)).
- (C) Child solicitation (IC 35-42-4-6).
- (D) Child seduction (IC 35-42-4-7).

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

(F) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).

(G) An offense in another jurisdiction that is substantially similar to an offense described

in clauses (A) through (F).

A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time.

(b) As used in this section, "reside" means to spend more than three (3) nights in:

(1) a residence; or

(2) if the person does not reside in a residence, a particular location;

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property, not including property of an institution providing post-secondary education;

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration, probation, or parole, whichever occurs last. A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered an offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.

*As added by P.L.6-2006, SEC.8. Amended by P.L.140-2006, SEC.32 and P.L.173-2006, SEC.32; P.L.216-2007, SEC.47.*

## **IC 35-42-4-12**

### **Sex offender internet offense**

Sec. 12. (a) This section does not apply to a person to whom all of the following apply:

(1) The person is not more than:

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

(B) five (5) years older than the victim if the offense was committed before July 1, 2007.

(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;  
(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.

(b) This section applies only to a person required to register as a sex or violent offender under IC 11-8-8 who has been:

(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)).

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

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

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

(I) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (H).

(J) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (H).

(c) As used in this section, "instant messaging or chat room program" means a software program that requires a person to register or create an account, a username, or a password to become a member or registered user of the program and allows two (2) or more members or authorized users to communicate over the Internet in real time using typed text. The term does not include an electronic mail program or message board program.

(d) As used in this section, "social networking web site" means an Internet web site that:

(1) facilitates the social introduction between two (2) or more persons;

(2) requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members;

(3) allows a member to create a web page or a personal profile; and

(4) provides a member with the opportunity to communicate with another person.

The term does not include an electronic mail program or message board program.

(e) A person described in subsection (b) who knowingly or intentionally uses:

(1) a social networking web site; or

(2) an instant messaging or chat room program;

that the offender knows allows a person who is less than eighteen (18) years of age to access or use the web site or program commits a sex offender Internet offense, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.

(f) It is a defense to a prosecution under this section that the person:

(1) did not know that the web site or program allowed a person who is less than eighteen (18) years of age to access or use the web site or program; and

(2) upon discovering that the web site or program allows a person who is less than eighteen (18) years of age to access or use the web site or program, immediately ceased further use or access of the web site or program. *As added by P.L. 119-2008, SEC. 18.*

### **IC 35-42-4-13**

#### **Inappropriate communication with a child**

Sec. 13. (a) This section does not apply to the following:

(1) A parent, guardian, or custodian of a child.

(2) A person who acts with the permission of a child's parent, guardian, or custodian.

(3) A person to whom a child makes a report of abuse or neglect.

(4) A person to whom a child reports medical symptoms that relate to or may relate to sexual activity.

(b) As used in this section, "sexual activity" means sexual intercourse, deviate sexual conduct, or the fondling or touching of the buttocks, genitals, or female breasts.

(c) A person at least twenty-one (21) years of age who knowingly or intentionally communicates with an individual whom the person believes to be a child less than fourteen (14) years of age concerning sexual activity with the intent to gratify the sexual desires of the person or the individual commits inappropriate communication with a child, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)). *As added by P.L. 119-2008, SEC. 19.*

### **IC 35-45-4**

Chapter 4. Indecent Acts and Prostitution

#### **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 deviate sexual conduct;

(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 subsection (b) is a Class D 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 deviate sexual conduct;
- (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.

*As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.76; P.L.189-1984, SEC.1; P.L.215-1997, SEC.1; P.L.121-2000, SEC.1; P.L.123-2003, SEC.2.*

### **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. However, the offense is a Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (d).

(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 Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (c). *As added by P.L.123-2003, SEC.3.*

### **IC 35-45-4-2**

#### **Prostitution**

Sec. 2. A person who knowingly or intentionally:

- (1) performs, or offers or agrees to perform, sexual intercourse or deviate sexual conduct; 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 Class D felony if the person has two (2) prior convictions under this section.

*As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.77; Acts 1979, P.L.301, SEC.1; P.L.310-1983, SEC.3.*

### **IC 35-45-4-3**

#### **Patronizing a prostitute**

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 deviate sexual conduct 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 patronizing a prostitute, a Class A misdemeanor. However, the offense is a Class D felony if the person has two (2) prior convictions under this section.

*As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.78; Acts 1979, P.L.301, SEC.2; P.L.310-1983, SEC.4.*

#### **IC 35-45-4-4**

##### **Promoting prostitution**

Sec. 4. A person who:

(1) knowingly or intentionally entices or compels another person to become a prostitute;

(2) knowingly or intentionally procures, or offers or agrees to procure, a person for another person for the purpose of prostitution;

(3) having control over the use of a place, knowingly or intentionally permits another person to use the place for prostitution;

(4) receives money or other property from a prostitute, without lawful consideration, knowing it was earned in whole or in part from prostitution; or

(5) knowingly or intentionally conducts or directs another person to a place for the purpose of prostitution; commits promoting prostitution, a Class C felony. However, the offense is a Class B felony under subdivision (1) if the person enticed or compelled is under eighteen (18) years of age. *As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.79; Acts 1978, P.L.148, SEC.6.*

#### **IC 35-45-4-5**

##### **Voyeurism; "peep" defined**

Sec. 5. (a) A person:

(1) who:

(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 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.

(b) However, the offense under subsection (a) is a Class D felony if:

(1) it is knowingly or intentionally committed by means of a camera, a video camera, or any other type of video recording device; 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.

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

*As added by P.L.311-1983, SEC.31. Amended by P.L.301-1995, SEC.1; P.L.215-1997, SEC.2; P.L.7-2005, SEC.1.*

### **IC 35-42-3.5**

#### Chapter 3.5. Human and Sexual Trafficking

### **IC 35-42-3.5-1**

#### **Promotion of human trafficking; sexual trafficking of a minor; human trafficking**

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

(1) to engage the other person in:

(A) forced labor; or

(B) involuntary servitude; or

(2) to force the other person into:

(A) marriage; or

(B) prostitution;

commits promotion of human trafficking, a Class B felony.

(b) A parent, guardian, or custodian of a child less than eighteen (18) years of age who knowingly or intentionally sells or transfers custody of the child for the purpose of prostitution commits sexual trafficking of a minor, a Class A felony.

(c) 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;

commits human trafficking, a Class C felony. *As added by P.L.173-2006, SEC.52.*

### **IC 35-42-3.5-2**

#### **Restitution orders**

Sec. 2. In addition to any sentence or fine imposed for a conviction of an offense under section 1 of this chapter, the court shall order the person convicted to make restitution to the victim of the crime under IC 35-50-5-3.

*As added by P.L.173-2006, SEC.52.*

### **IC 35-42-3.5-3**

#### **Civil cause of action**

Sec. 3. (a) If a person is convicted of an offense under section 1 of this chapter, the victim of the offense:

(1) has a civil cause of action against the person convicted of the offense; and

(2) may recover the following from the person in the civil action:

(A) Actual damages.

(B) Court costs.

(C) Punitive damages, when determined to be appropriate by the court.

(D) Reasonable attorney's fees.

(b) An action under this section must be brought not more than two (2) years after the date the person is convicted of the offense under section 1 of this chapter.

*As added by P.L.173-2006, SEC.52.*

#### **IC 35-42-3.5-4**

##### **Rights of alleged victims**

Sec. 4. (a) An alleged victim of an offense under section 1 of this chapter:

(1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;

(2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and

(3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:

(A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and

(B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the Indiana criminal justice institute as appropriate.

(b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under section 1 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

*As added by P.L.173-2006, SEC.52. Amended by P.L.130-2009, SEC.27.*