

SENATE BILL No. 367

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-28-5-8; IC 35-31.5-2-38; IC 35-38-1.

Synopsis: Revocation of teaching licenses. Requires a court to issue an order recommending to the department of education (department) revocation of a defendant's teaching license if the defendant is convicted of certain crimes and the victim is a child less than 18 years of age. Requires the department to revoke the license upon receipt of the order. Provides that a presentence investigation includes gathering information with respect to whether the convicted defendant holds a teaching license.

Effective: July 1, 2017.

Bassler

January 10, 2017, read first time and referred to Committee on Judiciary.



First Regular Session 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

SENATE BILL No. 367

A BILL FOR AN ACT to amend the Indiana Code concerning education.

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

1 SECTION 1. IC 20-28-5-8, AS AMENDED BY P.L.13-2016,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 8. (a) This section applies when a prosecuting
4 attorney knows that a licensed employee of a public school or a
5 nonpublic school has been convicted of an offense listed in subsection
6 (c). The prosecuting attorney shall immediately give written notice of
7 the conviction to the following:
8 (1) The state superintendent.
9 (2) Except as provided in subdivision (3), the superintendent of
10 the school corporation that employs the licensed employee or the
11 equivalent authority if a nonpublic school employs the licensed
12 employee.
13 (3) The presiding officer of the governing body of the school
14 corporation that employs the licensed employee, if the convicted
15 licensed employee is the superintendent of the school corporation.
16 (b) The superintendent of a school corporation, presiding officer of
17 the governing body, or equivalent authority for a nonpublic school shall



1 immediately notify the state superintendent when the individual knows
 2 that a current or former licensed employee of the public school or
 3 nonpublic school has been convicted of an offense listed in subsection
 4 (c), or when the governing body or equivalent authority for a nonpublic
 5 school takes any final action in relation to an employee who engaged
 6 in any offense listed in subsection (c).

7 (c) The department, after holding a hearing on the matter, shall
 8 permanently revoke the license of a person who is known by the
 9 department to have been convicted of any of the following felonies:

- 10 (1) Kidnapping (IC 35-42-3-2).
- 11 (2) Criminal confinement (IC 35-42-3-3).
- 12 (3) Rape (IC 35-42-4-1).
- 13 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 14 (5) Child molesting (IC 35-42-4-3).
- 15 (6) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- 16 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 17 (8) Child solicitation (IC 35-42-4-6).
- 18 (9) Child seduction (IC 35-42-4-7).
- 19 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 20 (11) Incest (IC 35-46-1-3).
- 21 (12) Dealing in or manufacturing cocaine or a narcotic drug
 22 (IC 35-48-4-1).
- 23 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 24 (14) Dealing in a schedule I, II, or III controlled substance
 25 (IC 35-48-4-2).
- 26 (15) Dealing in a schedule IV controlled substance
 27 (IC 35-48-4-3).
- 28 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 29 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- 30 (18) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 31 (IC 35-48-4-10).
- 32 (19) Dealing in a synthetic drug or synthetic drug lookalike
 33 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
 34 amendment in 2013).
- 35 (20) Possession of child pornography (IC 35-42-4-4(d) or
 36 IC 35-42-4-4(e)).
- 37 (21) Homicide (IC 35-42-1).
- 38 (22) Voluntary manslaughter (IC 35-42-1-3).
- 39 (23) Reckless homicide (IC 35-42-1-5).
- 40 (24) Battery as any of the following:
- 41 (A) A Class A felony (for a crime committed before July 1,
 42 2014) or a Level 2 felony (for a crime committed after June



- 1 30, 2014).
- 2 (B) A Class B felony (for a crime committed before July 1,
- 3 2014) or a Level 3 felony (for a crime committed after June
- 4 30, 2014).
- 5 (C) A Class C felony (for a crime committed before July 1,
- 6 2014) or a Level 5 felony (for a crime committed after June
- 7 30, 2014).
- 8 (25) Aggravated battery (IC 35-42-2-1.5).
- 9 (26) Robbery (IC 35-42-5-1).
- 10 (27) Carjacking (IC 35-42-5-2) (before its repeal).
- 11 (28) Arson as a Class A felony or Class B felony (for a crime
- 12 committed before July 1, 2014) or as a Level 2, Level 3, or Level
- 13 4 felony (for a crime committed after June 30, 2014)
- 14 (IC 35-43-1-1(a)).
- 15 (29) Burglary as a Class A felony or Class B felony (for a crime
- 16 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
- 17 or Level 4 felony (for a crime committed after June 30, 2014)
- 18 (IC 35-43-2-1).
- 19 (30) Attempt under IC 35-41-5-1 to commit an offense listed in
- 20 this subsection.
- 21 (31) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 22 in this subsection.
- 23 (d) The department, after holding a hearing on the matter, shall
- 24 permanently revoke the license of a person who is known by the
- 25 department to have been convicted of a federal offense or an offense in
- 26 another state that is comparable to a felony listed in subsection (c).
- 27 **(e) Upon receipt of a court order under IC 35-38-1-33**
- 28 **recommending that a person's license be revoked, the department**
- 29 **shall revoke the person's license.**
- 30 ~~(e)~~ **(f)** A license may be suspended by the state superintendent as
- 31 specified in IC 20-28-7.5.
- 32 ~~(f)~~ **(g)** The department shall develop a data base of information on
- 33 school corporation employees who have been reported to the
- 34 department under this section.
- 35 SECTION 2. IC 35-31.5-2-38, AS ADDED BY P.L.126-2012,
- 36 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 37 JULY 1, 2017]: Sec. 38. "Child", for purposes of **IC 35-38-1-33**,
- 38 IC 35-47-10, and IC 35-44.1-5-5, has the meaning set forth in
- 39 IC 35-47-10-3.
- 40 SECTION 3. IC 35-38-1-9, AS AMENDED BY P.L.179-2015,
- 41 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 42 JULY 1, 2017]: Sec. 9. (a) As used in this chapter, "recommendation"



1 has the meaning set forth in IC 35-31.5-2-272, and "victim" has the
2 meaning set forth in IC 35-31.5-2-348.

3 (b) The presentence investigation consists of the gathering of
4 information with respect to:

- 5 (1) the circumstances attending the commission of the offense;
- 6 (2) the convicted person's history of delinquency or criminality,
7 social history, employment history, family situation, economic
8 status, education, and personal habits;
- 9 (3) the impact of the crime upon the victim; and
- 10 (4) whether the convicted person is:

11 (A) licensed or certified in a profession regulated by IC 25; or

12 (B) licensed under IC 20-28-5.

13 (c) The presentence investigation may include any matter that the
14 probation officer conducting the investigation believes is relevant to
15 the question of sentence, and must include:

- 16 (1) any matters the court directs to be included;
- 17 (2) any written statements submitted to the prosecuting attorney
18 by a victim under IC 35-35-3;
- 19 (3) any written statements submitted to the probation officer by a
20 victim; and
- 21 (4) preparation of the victim impact statement required under
22 section 8.5 of this chapter.

23 (d) If there are no written statements submitted to the probation
24 officer, the probation officer shall certify to the court:

- 25 (1) that the probation officer has attempted to contact the victim;
26 and
- 27 (2) that if the probation officer has contacted the victim, the
28 probation officer has offered to accept the written statements of
29 the victim or to reduce the victim's oral statements to writing,
30 concerning the sentence, including the acceptance of any
31 recommendation.

32 (e) A presentence investigation report prepared by a probation
33 officer must include the information and comply with any other
34 requirements established in the rules adopted under IC 11-13-1-8.

35 (f) The probation officer shall consult with a community corrections
36 program officer or employee (if there is a community corrections
37 program in the county) regarding services and programs available to
38 the defendant while preparing the presentence investigation report.

39 SECTION 4. IC 35-38-1-33 IS ADDED TO THE INDIANA CODE
40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
41 1, 2017]: **Sec. 33. (a) At the time of sentencing, the court shall
42 determine the following:**



- 1 **(1) Whether the defendant holds a license under IC 20-28-5.**
 2 **(2) Whether the defendant is convicted of:**
 3 **(A) a crime under:**
 4 **(i) IC 35-42;**
 5 **(ii) IC 35-45-4-1 (public indecency);**
 6 **(iii) IC 35-45-4-3 (patronizing a prostitute);**
 7 **(iv) IC 35-45-4-4 (promoting prostitution); or**
 8 **(v) IC 35-46-1-3 (incest);**
 9 **(B) an attempt under IC 35-41-5-1 to commit an offense**
 10 **listed in clause (A); or**
 11 **(C) conspiracy under IC 35-41-5-2 to commit an offense**
 12 **listed in clause (A).**
 13 **(3) Whether the victim of the crime is a child.**
 14 **(b) If the court determines under subsection (a) that the:**
 15 **(1) defendant:**
 16 **(A) holds a license under IC 20-28-5; and**
 17 **(B) is convicted of a crime listed in subsection (a)(2); and**
 18 **(2) victim of the crime is a child;**
 19 **the court shall issue an order recommending that the defendant's**
 20 **license under IC 20-28-5 be revoked.**
 21 **(c) The court shall deliver any order recommending revocation**
 22 **of the defendant's license under this section to the department of**
 23 **education.**

