

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT**

LS 6764

BILL NUMBER: HB 1303

NOTE PREPARED: Jan 22, 2026

BILL AMENDED: Jan 20, 2026

SUBJECT: Child Sexual Abuse Material Crimes.

FIRST AUTHOR: Rep. McNamara

BILL STATUS: As Passed House

FIRST SPONSOR: Sen. Clark

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It removes provisions concerning possession of child sex abuse material (CSAM) from the statute containing the offense of child exploitation, and makes a new section for CSAM offenses.
- B. It creates a new crime for distribution of CSAM, and generally conforms the sentencing enhancements for possession of CSAM, distribution of CSAM, and child exploitation.
- C. It specifies that certain restrictions on CSAM in discovery also apply in civil proceedings (under current law, they only apply in criminal proceedings).
- D. It provides a defense in specified circumstances.
- E. It also removes certain duplicative provisions and makes conforming amendments and technical corrections.

Effective Date: July 1, 2026.

Explanation of State Expenditures: *Summary* - The bill increases the penalty for child exploitation (Level 4, Level 3, and Level 2 felony) and possession of child sex abuse material (CSAM) (Level 4 and Level 3 felony). It also creates a new penalty for distribution of CSAM as either a Level 5 or Level 4 felony. As a result, the bill would increase the Department of Correction (DOC) offender population and state expenditures for incarceration. OFMA estimates that up to 430 additional beds would be needed by FY 2038. DOC operating costs are estimated to increase by \$57,900 in FY 2027 and by up to \$2.07 M in FY 2038 and each year thereafter.

	FY 2027	FY 2029	FY 2031	FY 2033	FY 2035	FY 2037	FY 2038
Added Population:	12	36	143	227	373	423	430

Added Costs:	\$57,900	\$173,700	\$689,410	\$1.33 M	\$1.79 M	\$2.04 M	\$2.07 M
This estimate is based on the marginal cost of \$4,825 in FY 2025 held constant over these thirteen years.							

Effect on DOC: In addition, the bill expands the definition of “crimes of violence” to include all crimes of child exploitation. It adds CSAM offenses under IC 35-42-4-4.5 to the list of crimes classified as the following: sex or violent offender, sex offender, serious sex offender, and internet crimes against children. The bill also expands the list of individuals who may be prosecuted for unlawful entry by a sex offender or violations of sex offender residency restrictions as a Level 6 felony. Individuals convicted and sentenced for a Level 3, Level 4, or Level 5 felony, or a “crime of violence,” are likely to be confined for longer periods than individuals convicted of a Level 6 felony. Longer sentences would increase the DOC population and associated costs.

The following sections describe the sentencing impacts associated with these felony levels.

Sentences by Felony Level						
	Level 6	Level 5	Level 4	Level 3	Level 2	Level 1
Minimum	6 months	1 year	2 years	3 years	10 years	20 years
Advisory	1 year	3 years	6 years	9 years	17.5 years	30 years
Maximum	30 months	6 years	12 years	16 years	30 years	40 years

The average expenditure to house an adult offender was \$30,674 annually, or \$83.98 daily, in FY 2025. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,825 annually, or \$13.22 daily, per prisoner. These marginal cost estimates are based on contractual agreements with food and medical vendors and projections based on prior years for clothing and hygiene. The estimated average cost of housing a juvenile in a state juvenile facility was \$140,044, or \$383.42 daily, in FY 2025. The marginal cost for juvenile facilities was \$8,986 annually or \$24.62 daily.

Defense of a Prosecution: The bill provides that it is a defense to prosecution if the person is a school employee, a Department of Child Services (DCS) employee, a bona fide school, museum, public library, or an attorney acting in the attorney’s capacity as legal counsel for a client; and the acts were performed solely within the scope of the individual’s employment, or possession of the listed materials is for legitimate scientific or educational purposes. As a result, this could potentially decrease the number of individuals convicted and sentenced for possession or distribution of CSAM.

Additional Information -

Child Exploitation (Level 5 to Level 4): The bill increases the criminal penalty for child exploitation from a Level 5 to a Level 4 felony. An average of 20 individuals are convicted and sentenced for child exploitation as a Level 5 felony. Of these individuals, approximately 76% are committed to DOC for an average of 4.42 years, while individuals convicted and sentenced for a Level 4 felony are confined in DOC for approximately 7.5 years—an increase of about 3.05 years.

Child Exploitation (Level 4 to Level 3): The bill increases the penalty from a Level 4 to a Level 3 felony for child exploitation based on a prior unrelated conviction for a sex offense (IC 11-8-8-5.2) or if the conduct

depicts images that involve certain sex offenses. Each year, an average of 27 individuals are convicted and sentenced for child exploitation as a Level 4 felony. Of these individuals, approximately 86% are committed to DOC facilities for an average of 7.5 years. Of the individuals convicted and sentenced for a Level 3 felony (under IC 35-42-4), about 93% are confined in DOC for approximately 11.3 years - an increase of about 3.82 years.

Child Exploitation (Level 4 to Level 2): The enhancement from a Level 4 to a Level 2 felony for child exploitation committed by force or threat of force is expected to have a minor impact on the DOC offender population. On average, individuals convicted and sentenced for a Level 2 felony under IC 35-42-4 are confined in DOC for approximately 15.6 years—an increase of about 8.12 years.

Possession of Child Sex Abuse Material (Level 5 to Level 4): This provision would increase DOC's offender population. The bill increases the penalty from a Level 5 to a Level 4 felony for possession of CSAM based on a prior conviction or if the conduct depicted in the image involves certain offenses. Each year, an average of 56 individuals are convicted and sentenced for possession of CSAM as a Level 5 felony. Of these, approximately 71% are committed to DOC facilities for an average of 3.1 years. Of the individuals convicted and sentenced for a Level 4 felony (under IC 35-42-4), about 85% are confined in DOC for approximately 8.0 years - an increase of about 4.9 years.

Distribution of CSAM (Level 5 and Level 3): An individual who knowingly or intentionally distributes an image that depicts or describes sexual conduct commits distribution of CSAM if the image involves: (1) a child known by the individual to be less than 18 years of age; (2) a child less than 18 years of age, or a person who appears to be a child less than 18 years of age, if the image is obscene; or (3) simulated sexual conduct involving a representation that appears to be a child less than 18 years of age, if the representation is obscene. Distribution of CSAM is a Level 5 felony, or a Level 3 felony if the individual has a prior unrelated conviction for a sex offense or if the conduct depicted involves certain specified offenses. As proposed, this provision would increase the number of individuals prosecuted for distribution of CSAM as either a Level 5 or Level 3 felony; however, the number of additional prosecutions resulting from this provision is unknown.

Other Provisions: The bill adds CSAM offenses under IC 35-42-4-4.5 to the list of crimes classified as sex or violent offender, sex offender, serious sex offender, and internet crimes against children. It also adds CSAM offenses to the list of reportable crimes on a limited criminal history background check. For sentencing purposes, if the court finds that an offense qualifies as CSAM under IC 35-42-4-4.5, the court must enter a judgment of conviction as a Level 6 felony rather than a Class A misdemeanor.

Crimes of Violence: The bill expands the definition of “crimes of violence” to include all crimes of child exploitation under IC 35-42-4-4 and CSAM under 35-42-4-4.5. As a result, the bill would increase the population of DOC facilities, add workload to DOC's staff who operate the state's Sex and Violent Offender Registry, affect the offender population in community transition programs and on parole, and possibly increase the workload of hospitals that provide forensic services to victims of certain sex crimes. Also, individuals convicted of and sentenced for a “crime of violence” are ineligible for certain occupational licenses.

- Parole agents employed by the DOC are required to prepare a community investigation report for individuals who (1) are sentenced for a crime of violence, (2) are committed to DOC, and (3) will be supervised on parole (IC 11-13-3-3). Expanding the list of qualifying offenses will increase the number of community investigation reports that must be completed prior to an individual's release on parole.

- Individuals convicted of and sentenced for a crime of violence are ineligible for certain occupational licenses. The Professional Licensing Agency and the Department of Homeland Security will be required to screen applicants to determine whether they have been convicted child exploitation as a Level 3, Level 4, or Level 5 felony before granting certain occupational licenses. The Professional Licensing Agency should be able to implement this requirement using existing resources, assuming customary staffing and resource levels.

Sex Offender Restrictions: The bill expands the list of individuals who may be prosecuted for unlawful entry by a sex offender or for violating sex offender residency restrictions, classified as a Level 6 felony. Individuals charged with and convicted of a CSAM offense are required to register as a sex or violent offender with a local law enforcement agency. Registered sex offenders, serious sex offenders, and sex or violent offenders are prohibited from owning, operating, managing, being employed by, or volunteering at any attraction enjoyed by children under 18 years of age. The bill also prohibits individuals convicted of CSAM offenses from accessing or using certain websites, chat rooms, or instant messaging programs frequented by children, as well as from deleting, erasing, or tampering with data on their personal computers. As a result, individuals convicted of these offenses would be subject to additional restrictions and could commit technical violations, potentially resulting in recommitment to a DOC facility.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for any felony is \$10,000. Criminal fines are deposited into the Common School Fund and the state General Fund (from court fees) would increase.

The total fee revenue per case would range between \$113 and \$138. The amount of court fees deposited will vary depending on whether the case is filed in a court of record or a municipal court. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Explanation of Local Expenditures: *Effect on Jails:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The Gateway reports show that in CY 2023, housing offenders in 33 Indiana county jails cost an average of \$56 to \$79 per day.

Effect on County Sheriffs: Adding these new crimes could increase the number of individuals who would be required to register as a sex or violent offender. This would increase the workload on county sheriffs who monitor sex offenders at the county level.

Effect on Certain Hospitals: Individuals who are victims of either sex with a minor crime would be eligible for forensic medical exams and additional forensic services under this bill.

Discovery Rules: The bill provides that discovery rules applies to both civil and criminal proceedings. Also, any CSAM material must remain in the custody of the state or the court. Local law enforcement should be able to maintain proper custody and security of CSAM materials. This provision should have no impact on the courts.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, more revenue will be collected by certain local units. If the case is filed in a court of record, the county general fund will receive \$47.40 and qualifying municipalities will receive a share of \$3.60. If the case is filed in a municipal court, the county receives \$30, and the municipality will receive \$46. The following linked

document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

State Agencies Affected: Department of Correction; Department of Child Services; Department of Homeland Security; Professional Licensing Agency.

Local Agencies Affected: Trial courts, local law enforcement agencies, county sheriffs, community correction agencies, probation departments, all courts.

Information Sources: Indiana Sheriffs' Association, Indiana Supreme Court, Indiana Trial Court Fee Manual; Department of Correction; Indiana Gateway for Government Units, 2023 Annual Financial Reports, <https://gateway.ifionline.org/public/download.aspx> Bureau of Justice Statistics, 2023 Annual Survey of Jails Data Series, <https://www.icpsr.umich.edu/web/NACJD/series/7>.

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