

HOUSE BILL No. 1312

DIGEST OF INTRODUCED BILL

Citations Affected: IC 1-1-2-2.5; IC 33-40; IC 35-36-9; IC 35-50-2-9.5.

Synopsis: Penalties for certain sex offenses. Defines "aggravated child molesting". Provides that the state may seek either a death sentence or a sentence of life imprisonment without parole for a person convicted of aggravated child molesting. Provides requirements for a jury or court to impose either a death sentence or a sentence of life imprisonment without parole. Makes conforming changes.

Effective: July 1, 2026.

Ireland

January 6, 2026, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 124th General Assembly (2026)

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 2025 Regular Session of the General Assembly.

HOUSE BILL No. 1312

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 1-1-2-2.5, AS ADDED BY P.L.142-2020,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2026]: Sec. 2.5. (a) This section applies to every crime in
4 which proof that a person has a prior conviction or judgment for an
5 infraction increases:
6 (1) the class or level of the crime;
7 (2) the penalty for the crime from a misdemeanor to a felony; or
8 (3) the penalty for an infraction to a misdemeanor or felony.
9 (b) This section does not apply to a sentencing provision that
10 increases the penalty that may be imposed for an infraction or crime
11 but does not increase:
12 (1) the class or level of the crime;
13 (2) the penalty for the crime from a misdemeanor to a felony; or
14 (3) the penalty for an infraction to a misdemeanor or felony;
15 including IC 35-50-2-8 (habitual offenders), IC 35-50-2-9 **and**
16 **IC 35-50-2-9.5** (death penalty sentencing), IC 9-30-15.5 (habitual
17 vehicular substance offender), and IC 35-50-2-14 (repeat sexual



1 offender).

2 (c) This section does not apply to a crime that contains a specific
3 lookback period for a prior conviction or judgment for an infraction.

4 (d) Subject to subsection (e), and except as provided in subsection
5 (f), a prior conviction or a prior judgment for an infraction increases the
6 class or level of the crime, the penalty for the crime from a
7 misdemeanor to a felony, or the penalty for an infraction to a
8 misdemeanor or felony only if the current crime was committed not
9 later than twelve (12) years from the date the defendant was:

- 10 (1) convicted of the prior crime, if the defendant was not
- 11 sentenced to a term of incarceration or probation;
- 12 (2) adjudicated to have committed the infraction; or
- 13 (3) released from a term of incarceration, probation, or parole
- 14 (whichever occurs later) imposed for the prior conviction;
- 15 whichever occurred last.

16 (e) If a crime described in subsection (a) requires proof of more than
17 one (1) criminal conviction or judgment for an infraction, the increased
18 penalty applies only if the current crime was committed not later than
19 twelve (12) years from the date the defendant was:

- 20 (1) convicted of one (1) of the prior crimes, if the person was not
- 21 sentenced to a term of incarceration or probation;
- 22 (2) adjudicated to have committed one (1) of the infractions; or
- 23 (3) released from a term of incarceration, probation, or parole
- 24 (whichever occurs later) imposed for one (1) of the prior
- 25 convictions;
- 26 whichever occurred last.

27 (f) This section does not apply if the crime described in subsection
28 (a) is one (1) or more of the following:

- 29 (1) A crime of violence (as defined by IC 35-50-1-2).
- 30 (2) A crime that results in bodily injury or death to a victim.
- 31 (3) A sex offense (as defined by IC 11-8-8-5.2).
- 32 (4) Domestic battery (IC 35-42-2-1.3).
- 33 (5) Strangulation (IC 35-42-2-9).
- 34 (6) Operating while intoxicated with a prior conviction for
- 35 operating while intoxicated that resulted in death, serious bodily
- 36 injury, or catastrophic injury (IC 9-30-5-3(b)).
- 37 (7) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- 38 (8) Dealing in methamphetamine (IC 35-48-4-1.1).
- 39 (9) Manufacturing methamphetamine (IC 35-48-4-1.2).
- 40 (10) Dealing in a schedule I, II, or III controlled substance (IC
- 41 35-48-4-2).

42 (g) If there is a conflict between a provision in this section and



another provision of the Indiana Code, this section controls.

SECTION 2. IC 33-40-5-4, AS AMENDED BY P.L.161-2025, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) The commission shall do the following:

(1) Make recommendations to the supreme court concerning standards for indigent defense services provided for defendants against whom the state has sought the death sentence under IC 35-50-2-9 **or IC 35-50-2-9.5**, including the following:

(A) Determining indigency and eligibility for legal representation.

(B) Selection and qualifications of attorneys to represent indigent defendants at public expense.

(C) Determining conflicts of interest.

(D) Investigative, clerical, and other support services necessary to provide adequate legal representation.

(2) Adopt guidelines and standards for indigent defense services under which the counties will be eligible for reimbursement under IC 33-40-6, including the following:

(A) Determining indigency and the eligibility for legal representation.

(B) The issuance and enforcement of orders requiring the defendant to pay for the costs of court appointed legal representation under IC 33-40-3.

(C) The use and expenditure of funds in the county supplemental public defender services fund established under IC 33-40-3-1.

(D) Qualifications of attorneys to represent indigent defendants at public expense.

(E) Compensation rates for salaried, contractual, and assigned counsel.

(F) Minimum and maximum caseloads of public defender offices and contract attorneys.

(G) Requirements concerning the creation and operation of a multicounty public defender's office created under an interlocal agreement as described in IC 33-40-7-3.5.

(3) Make recommendations concerning the delivery of indigent defense services in Indiana, including the funding and delivery of indigent defense services for juveniles.

(4) Make an annual report to the governor, the general assembly, and the supreme court on the operation of the public defense fund.

(5) Make a report not later than December 1, 2029, to the legislative council and the budget committee concerning the up



to forty percent (40%) reimbursement from the public defense fund for indigent defense services for misdemeanor cases under IC 33-40-6-4(d), IC 33-40-6-5(c), and IC 33-40-7-11(d).

(6) On or before July 1, 2031, and July 1 biennially thereafter, the commission shall submit a report to the executive director of the legislative services agency, in an electronic format under IC 5-14-6, for review by the interim committee on government in accordance with IC 1-1-15.5-4 and IC 2-5-1.3-13(g). The report shall describe:

(A) official action taken; and

(B) actionable items considered;

by the commission during the preceding two (2) years.

(b) The commission must provide data and statistics concerning how the reimbursement has impacted attorney appointment rates, jail population, trial rates, and case outcomes in the report under subsection (a)(5).

(c) The report to the general assembly under subsection (a)(4) and to the legislative council under subsection (a)(5) must be in an electronic format under IC 5-14-6.

(d) The commission shall not:

(1) receive any additional appropriations from the general assembly for misdemeanor reimbursement; or

(2) reimburse a county other than a county described in IC 33-40-6-4(d) for misdemeanor reimbursement;

before July 1, 2029

SECTION 3. IC 33-40-6-4, AS AMENDED BY P.L.111-2024, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) For purposes of this section, the term "county auditor" includes a person who:

(1) is the auditor of a county that is a member of a multicounty public defender's office; and

(2) is responsible for the receipt, disbursement, and accounting of all monies distributed to the multicounty public defender's office.

(b) A county auditor may submit on a quarterly basis a certified request to the Indiana commission on court appointed attorneys for reimbursement from the public defense fund for an amount equal to fifty percent (50%) of the county's expenditures for indigent defense services provided to a defendant against whom the death sentence is sought under IC 35-50-2-9 **or IC 35-50-2-9.5.**

(c) Except as provided in subsection (d), a county auditor may submit on a quarterly basis a certified request to the Indiana commission on court appointed attorneys for reimbursement from the



1 public defense fund for an amount equal to forty percent (40%) of the
 2 county's or multicounty public defender's office's expenditures for
 3 indigent defense services provided in all noncapital cases except
 4 misdemeanors.

5 (d) This subsection applies to a county that is one (1) of up to twelve
 6 (12) counties that shall be selected by the Indiana commission on court
 7 appointed attorneys based on population and geographic diversity. A
 8 county auditor may submit on a quarterly basis a certified request to the
 9 Indiana commission on court appointed attorneys for reimbursement
 10 from the public defense fund for an amount that is up to forty percent
 11 (40%) of the county's or multicounty public defender's office's
 12 expenditures for indigent defense services provided in misdemeanor
 13 cases. This subsection expires June 30, 2029.

14 (e) The Indiana commission on court appointed attorneys may
 15 substitute a county described in subsection (d) with a county with
 16 similar population and geographic characteristics if the county
 17 described in subsection (d) declines to participate in the misdemeanor
 18 reimbursement. If a county is substituted under this subsection, the
 19 Indiana commission on court appointed attorneys shall publish on its
 20 website the replacement county.

21 (f) A request under this section from a county described in
 22 IC 33-40-7-1(5) may be limited to expenditures for indigent defense
 23 services provided by a particular division of a court.

24 (g) A county auditor shall submit quarterly to the Indiana
 25 commission on court appointed attorneys information to be included in
 26 the report under IC 33-40-5-4(a)(5) regarding reimbursements
 27 requested and received from the public defense fund for the county's
 28 expenditures for indigent defense services provided under subsections
 29 (b), (c), and (d).

30 SECTION 4. IC 33-40-6-5, AS AMENDED BY P.L.1-2025,
 31 SECTION 225, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2026]: Sec. 5. (a) As used in this section,
 33 "commission" means the Indiana commission on court appointed
 34 attorneys established by IC 33-40-5-2.

35 (b) Except as provided under section 6 of this chapter, upon
 36 certification by a county auditor and a determination by the
 37 commission that the request is in compliance with the guidelines and
 38 standards set by the commission, the commission shall quarterly
 39 authorize an amount of reimbursement due the county or multicounty
 40 public defender's office:

41 (1) that is equal to fifty percent (50%) of the county's or
 42 multicounty public defender's office's certified expenditures for



indigent defense services provided for a defendant against whom the death sentence is sought under IC 35-50-2-9 **or IC 35-50-2-9.5**; and

(2) except as provided in subsection (c), that is equal to forty percent (40%) of the county's or multicounty public defender's office's certified expenditures for defense services provided in noncapital cases except misdemeanors.

The commission shall then certify to the state comptroller the amount of reimbursement owed to a county or multicounty public defender's office under this chapter.

(c) This subsection applies to a county that is one (1) of up to twelve (12) counties that shall be selected by the commission based on population and geographic diversity. Upon certification by a county auditor and a determination by the commission that the request is in compliance with the guidelines and standards set by the commission, the commission may quarterly authorize an amount of reimbursement due the county or multicounty public defender's office that is up to forty percent (40%) of the county's or multicounty public defender's office's certified expenditures for defense services provided in misdemeanor cases. This subsection expires June 30, 2029.

(d) The commission may substitute a county described in subsection (c) with a county with similar population and geographic characteristics if the county described in subsection (c) declines to participate in the misdemeanor reimbursement. If a county is substituted under this subsection, the commission shall publish on its website the replacement county.

(e) Upon receiving certification from the commission, the state comptroller shall issue a warrant to the treasurer of state for disbursement to the county or multicounty public defender's office of the amount certified.

(f) The commission shall include in its report under IC 33-40-5-4(a)(5) information regarding requested reimbursements and amounts certified for reimbursements to each county or multicounty public defender's office under subsections (b) and (c).

SECTION 5. IC 35-36-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. This chapter applies when a defendant is charged with:

(1) a murder for which the state seeks a death sentence under IC 35-50-2-9; **or**

(2) **aggravated child molesting for which the state seeks a death sentence under IC 35-50-2-9.5.**

SECTION 6. IC 35-36-9-6, AS AMENDED BY P.L.117-2015,



SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 6. If the court determines that the defendant is an individual with an intellectual disability under section 5 of this chapter, the part of the state's charging instrument filed under IC 35-50-2-9(a) **or IC 35-50-2-9.5(b)** that seeks a death sentence against the defendant shall be dismissed.

SECTION 7. IC 35-50-2-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 9.5. (a) As used in this section, "aggravated child molesting" means child molesting involving sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5), if:

(1) the offense is committed by a person at least twenty-one (21) years of age; and

(2) the victim is less than twelve (12) years of age.

(b) The state may seek either a death sentence or a sentence of life imprisonment without parole for a person convicted of aggravated child molesting. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with an intellectual disability.

(c) If the defendant was convicted of aggravated child molesting in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of educational credit, good time credit, and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find that the death penalty or life imprisonment without parole is appropriate considering the nature of the offense and the character of the defendant. The defendant may present any additional evidence relevant to the nature of the offense and the character of the defendant.

(d) Except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:



1 (1) the death penalty; or

2 (2) life imprisonment without parole;

3 only if it makes the findings described in subsection (k). If the jury
4 reaches a sentencing recommendation, the court shall sentence the
5 defendant accordingly. After a court pronounces sentence, a
6 representative of the victim's family and friends may present a
7 statement regarding the impact of the crime on family and friends.
8 The impact statement may be submitted in writing or given orally
9 by the representative. The statement shall be given in the presence
10 of the defendant.

11 (e) If a jury is unable to agree on a sentence recommendation
12 after reasonable deliberations, the court shall discharge the jury
13 and proceed as if the hearing had been to the court alone.

14 (f) If the hearing is to the court alone, except as provided by
15 IC 35-36-9, the court shall:

16 (1) sentence the defendant to death; or

17 (2) impose a term of life imprisonment without parole;
18 only if it makes the findings described in subsection (k).

19 (g) If a court sentences a defendant to death, the court shall
20 order the defendant's execution to be carried out not later than one
21 (1) year and one (1) day after the date the defendant was convicted.
22 The supreme court has exclusive jurisdiction to stay the execution
23 of a death sentence. If the supreme court stays the execution of a
24 death sentence, the supreme court shall order a new date for the
25 defendant's execution.

26 (h) If a person sentenced to death by a court files a petition for
27 post-conviction relief, the court, not later than ninety (90) days
28 after the date the petition is filed, shall set a date to hold a hearing
29 to consider the petition. If a court does not, within the ninety (90)
30 day period, set the date to hold the hearing to consider the petition,
31 the court's failure to set the hearing date is not a basis for
32 additional post-conviction relief. The attorney general shall answer
33 the petition for post-conviction relief on behalf of the state. At the
34 request of the attorney general, a prosecuting attorney shall assist
35 the attorney general. The court shall enter written findings of fact
36 and conclusions of law concerning the petition not later than ninety
37 (90) days after the date the hearing concludes. However, if the
38 court determines that the petition is without merit, the court may
39 dismiss the petition within ninety (90) days without conducting a
40 hearing under this subsection.

41 (i) A death sentence is subject to automatic review by the
42 supreme court. The review, which shall be heard under rules



1 adopted by the supreme court, shall be given priority over all other
 2 cases. The supreme court's review must take into consideration all
 3 claims that the:

4 (1) conviction or sentence was in violation of the:

5 (A) Constitution of the State of Indiana; or

6 (B) Constitution of the United States;

7 (2) sentencing court was without jurisdiction to impose a
 8 sentence; and

9 (3) sentence:

10 (A) exceeds the maximum sentence authorized by law; or

11 (B) is otherwise erroneous.

12 If the supreme court cannot complete its review by the date set by
 13 the sentencing court for the defendant's execution under subsection
 14 (g), the supreme court shall stay the execution of the death sentence
 15 and set a new date to carry out the defendant's execution.

16 (j) A person who has been sentenced to death and who has
 17 completed state post-conviction review proceedings may file a
 18 written petition with the supreme court seeking to present new
 19 evidence challenging the person's guilt or the appropriateness of
 20 the death sentence if the person serves notice on the attorney
 21 general. The supreme court shall determine, with or without a
 22 hearing, whether the person has presented previously undiscovered
 23 evidence that undermines confidence in the conviction or the death
 24 sentence. If necessary, the supreme court may remand the case to
 25 the trial court for an evidentiary hearing to consider the new
 26 evidence and its effect on the person's conviction and death
 27 sentence. The supreme court may not make a determination in the
 28 person's favor nor make a decision to remand the case to the trial
 29 court for an evidentiary hearing without first providing the
 30 attorney general with an opportunity to be heard on the matter.

31 (k) Before a sentence may be imposed under this section, the
 32 jury, in a proceeding under subsection (d), or the court, in a
 33 proceeding under subsection (f), must find that any mitigating
 34 circumstances that exist are outweighed by the nature of the
 35 offense and the character of the defendant.

