



PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 246 be amended to read as follows:

- 1           Page 4, after line 2, begin a new paragraph and insert:
- 2           "SECTION 6. IC 35-40-5-11.5, AS AMENDED BY P.L.42-2023,
- 3           SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4           JULY 1, 2026]: Sec. 11.5. (a) This section applies only to a criminal
- 5           case involving a child less than ~~sixteen (16)~~ **seventeen (17)** years of
- 6           age who is the victim or alleged victim of a sex offense.
- 7           (b) The following definitions apply throughout this section:
- 8           (1) "Accused" or "the accused" means a person charged with
- 9           committing a sex offense against a child victim. The term does
- 10          not include an attorney who represents the accused.
- 11          (2) "Child victim" means a child less than ~~sixteen (16)~~ **seventeen**
- 12          **(17)** years of age who is the victim or alleged victim of a sex
- 13          offense.
- 14          (3) "Defendant" means a person charged with committing a sex
- 15          offense against a child victim and an attorney who represents the
- 16          defendant.
- 17          (4) "Deposition" or "depose" means a deposition or taking a
- 18          deposition pursuant to Indiana Trial Rule 30 or Indiana Trial Rule
- 19          31, or any other formal or informal statement or interview.
- 20          (5) "Sex offense" has the meaning set forth in IC 11-8-8-5.2.
- 21          (c) A defendant may depose a child victim only in accordance with

1 this section.

2 (d) A defendant may not take the deposition of a child victim unless  
3 the defendant contacts the prosecuting attorney before contacting the  
4 child, and one (1) or more of the following apply:

5 (1) The prosecuting attorney agrees to the deposition. The  
6 prosecuting attorney may condition the prosecuting attorney's  
7 agreement to the deposition upon the defendant's acceptance of  
8 the manner in which the deposition shall be conducted.

9 (2) The court authorizes the deposition after finding, following a  
10 hearing under subsection (f), that there is a reasonable likelihood  
11 that the child victim will be unavailable for trial and the  
12 deposition is necessary to preserve the child victim's testimony.

13 (3) The court authorizes the deposition after finding, following a  
14 hearing under subsection (g), that the deposition is necessary:

15 (A) due to the existence of extraordinary circumstances; and

16 (B) in the interest of justice.

17 (e) If the prosecuting attorney does not agree to the deposition, the  
18 defendant may petition the court for authorization to depose the child  
19 victim under subsection (d)(2), (d)(3), or both subsection (d)(2) and  
20 (d)(3). Upon receipt of the petition, the court shall notify the  
21 prosecuting attorney and set a hearing to determine whether to  
22 authorize a deposition of the child victim, and, if applicable, to  
23 determine the manner in which the deposition shall be conducted.

24 (f) The court shall authorize the deposition of a child victim under  
25 subsection (d)(2) if the defendant proves by a preponderance of the  
26 evidence that there is a reasonable likelihood that the child victim will  
27 be unavailable for trial and the deposition is necessary to preserve the  
28 child victim's testimony.

29 (g) The court may not authorize the deposition of a child victim  
30 under subsection (d)(3) unless the defendant establishes by a  
31 preponderance of the evidence that the deposition is necessary:

32 (1) due to the existence of extraordinary circumstances; and

33 (2) in the interest of justice.

34 (h) If the court authorizes the deposition of a child victim under  
35 subsection (f) or (g), the court shall determine the manner in which the  
36 deposition shall be conducted, after considering:

37 (1) the age of the child;

38 (2) the rights of the victim under IC 35-40-5-1; and

39 (3) any other relevant factors or special considerations.

40 (i) If the court denies a petition to depose a child victim, the court  
41 shall issue a written order describing the reason for the denial.

42 (j) If the court grants a request to depose a child victim, the court  
43 shall issue a written order describing the reason for granting the  
44 petition and setting forth the manner in which the deposition shall be  
45 conducted. The order shall:

46 (1) expressly prohibit the accused from deposing or being present

1 at the deposition of the child victim unless:  
2 (A) there is a reasonable likelihood that the child victim will  
3 be unavailable for trial;  
4 (B) the deposition is necessary to preserve the child victim's  
5 testimony; and  
6 (C) the presence of the accused is necessary to preserve the  
7 constitutional rights of the accused under the Sixth  
8 Amendment of the Constitution of the United States or Article  
9 1, Section 13 of the Constitution of the State of Indiana;  
10 (2) describe the manner in which the deposition shall be  
11 conducted; and  
12 (3) if applicable, issue a protective order under Indiana Trial Rule  
13 26(C).".  
14 Renumber all SECTIONS consecutively.  
(Reference is to ESB 246 as printed February 5, 2026.)

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Representative Bascom