



# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 170 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 criminal law.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 35-46-1-8, AS AMENDED BY P.L.158-2013,
- 6 SECTION 554, IS AMENDED TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) A person at least eighteen
- 8 (18) years of age who knowingly or intentionally encourages, aids,
- 9 induces, or causes a person less than eighteen (18) years of age to
- 10 commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2)
- 11 commits contributing to delinquency, a Class A misdemeanor.
- 12 (b) However, **except as provided in subsection (c)**, the offense
- 13 described in subsection (a) is:
- 14 (1) a Level 5 felony if:
- 15 (A) the person committing the offense is at least twenty-one
- 16 (21) years of age and knowingly or intentionally furnishes:
- 17 (i) an alcoholic beverage to a person less than eighteen (18)
- 18 years of age in violation of IC 7.1-5-7-8 when the person
- 19 committing the offense knew or reasonably should have
- 20 known that the person furnished the alcoholic beverage was
- 21 less than eighteen (18) years of age; or
- 22 (ii) a controlled substance (as defined in IC 35-48-1-9) or a
- 23 drug (as defined in IC 9-13-2-49.1) in violation of Indiana
- 24 law; and
- 25 (B) the consumption, ingestion, or use of the alcoholic
- 26 beverage, controlled substance, or drug is the proximate cause
- 27 of the death of any person; ~~and~~

(2) a Level 6 felony if the person committing the offense knowingly or intentionally encourages, aids, induces, or causes a ~~person less than eighteen (18) years of age~~ **child** to commit an act that would be a felony if committed by an adult under any of the following:

- (A) IC 35-48-4-1.
- (B) IC 35-48-4-1.1.
- (C) IC 35-48-4-2.
- (D) IC 35-48-4-3.
- (E) IC 35-48-4-4.
- (F) IC 35-48-4-4.5.
- (G) IC 35-48-4-4.6.
- (H) IC 35-48-4-5.

**(c) If the person at least eighteen (18) years of age knowingly or intentionally encourages, aids, induces, or causes a child to commit an act that would be a felony under IC 35-42 if committed by an adult, the person commits a felony one (1) level higher than the felony under IC 35-42. However, if the felony under IC 35-42 is:**

- (1) murder, the penalty for the offense committed by the person is the same penalty as murder; and**
- (2) a Level 1 felony, the person commits a Level 1 felony.**

**(d) It is not a defense to a prosecution under this section that:**

- (1) no petition alleging delinquency has been filed against the child;**
- (2) no delinquency hearing was held; or**
- (3) an adjudication resulted in no true finding of delinquency.**

SECTION 2. IC 35-46-1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 8.5. (a) A person at least eighteen (18) years of age who knowingly or intentionally encourages, aids, induces, or causes a child to commit a felony described in IC 35-42 commits the same offense as the child (as described in IC 35-41-2-4). However, the penalty for the offense is a felony one (1) level higher than the felony committed by the child. If the felony committed by the child is:**

- (1) murder, the penalty for the offense committed by the person is the same penalty as murder; and**
- (2) a Level 1 felony, the person commits a Level 1 felony.**

**(b) It is not a defense to a prosecution under subsection (a) that the child:**

- (1) has not been prosecuted for the offense;**
- (2) has not been convicted of the offense; or**
- (3) has been acquitted of the offense.**

**(c) If:**

- (1) there is a collateral consequence, including eligibility for a license or a permit, associated with the felony committed by**

- 1           the person under IC 35-42;  
2           (2) the collateral consequence applies to a person who  
3           commits the same offense as the felony committed by the  
4           child; and  
5           (3) increasing the felony penalty by one (1) level means that  
6           the collateral consequence would not apply to the person;  
7           for purposes of applying the collateral consequence, the felony  
8           committed by the person is considered to be a felony of the same  
9           level as the felony committed by the child.  
10          Renumber all SECTIONS consecutively.  
            (Reference is to SB 170 as printed January 27, 2017.)

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Senator DELPH