



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1079 be amended to read as follows:

- 1 Page 2, after line 11, begin a new paragraph and insert:
2 "SECTION 2. IC 35-42-4-7, AS AMENDED BY P.L.40-2019,
3 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2022]: Sec. 7. (a) As used in this section, "adoptive parent"
5 has the meaning set forth in IC 31-9-2-6.
6 (b) As used in this section, "adoptive grandparent" means the parent
7 of an adoptive parent.
8 (c) As used in this section, "charter school" has the meaning set
9 forth in IC 20-18-2-2.5.
10 (d) As used in this section, "child care worker" means a person who:
11 (1) provides care, supervision, or instruction to a child within the
12 scope of the person's employment in a shelter care facility;
13 (2) is employed by a:
14 (A) school corporation;
15 (B) charter school;
16 (C) nonpublic school; or
17 (D) special education cooperative;
18 attended by a child who is the victim of a crime under this
19 chapter; or
20 (3) is:
21 (A) affiliated with a:
22 (i) school corporation;
23 (ii) charter school;
24 (iii) nonpublic school; or
25 (iv) special education cooperative;
26 attended by a child who is the victim of a crime under this
27 chapter, regardless of how or whether the person is

- 1 compensated;
- 2 (B) in a position of trust in relation to a child who attends the
- 3 school; or cooperative;
- 4 (C) engaged in the provision of care or supervision to a child
- 5 who attends the school; or cooperative; and
- 6 (D) at least four (4) years older than the child who is the
- 7 victim of a crime under this chapter.
- 8 The term does not include a student who attends the school or
- 9 cooperative.
- 10 (e) As used in this section, "custodian" means any person who
- 11 resides with a child and is responsible for the child's welfare.
- 12 (f) As used in this section, "mental health professional" means:
- 13 (1) a mental health counselor licensed under IC 25-23.6-8.5;
- 14 (2) a psychologist; or
- 15 (3) a psychiatrist.
- 16 (g) As used in this section, "military recruiter" means a member of:
- 17 (1) the United States Air Force;
- 18 (2) the United States Army;
- 19 (3) the United States Coast Guard;
- 20 (4) the United States Marine Corps;
- 21 (5) the United States Navy;
- 22 (6) any reserve components of the military forces listed in
- 23 subdivisions (1) through (5); or
- 24 (7) the Indiana National Guard;
- 25 whose primary job function, classification, or specialty is recruiting
- 26 individuals to enlist with an entity listed in subdivisions (1) through
- 27 (7).
- 28 (h) As used in this section, "nonpublic school" has the meaning set
- 29 forth in IC 20-18-2-12.
- 30 (i) For purposes of this section, a person has a "professional
- 31 relationship" with a child if:
- 32 (1) the person:
- 33 (A) has a license issued by the state or a political subdivision
- 34 on the basis of the person's training and experience that
- 35 authorizes the person to carry out a particular occupation; or
- 36 (B) is employed in a position in which counseling, supervising,
- 37 instructing, or recruiting children forms a significant part of
- 38 the employment; and
- 39 (2) the person has a relationship with a child that is based on the
- 40 person's employment or licensed status as described in
- 41 subdivision (1).
- 42 The term includes a relationship between a child and a mental health
- 43 professional or military recruiter. The term does not include a coworker
- 44 relationship between a child and a person described in subdivision
- 45 (1)(B).
- 46 (j) As used in this section, "school corporation" has the meaning set

1 forth in IC 20-18-2-16.

2 (k) As used in this section, "special education cooperative" has the
3 meaning set forth in IC 20-35-5-1.

4 (l) As used in this section, "stepparent" means an individual who is
5 married to a child's custodial or noncustodial parent and is not the
6 child's adoptive parent.

7 **(m) As used in this section, "workplace supervisor" means an**
8 **individual who has authority over a child while the child is**
9 **employed at the child's place of employment. The term includes a**
10 **person who is responsible for determining the child's wages**
11 **(including whether the child will receive a raise), or who otherwise**
12 **has the authority to take an adverse employment action against the**
13 **child.**

14 ~~(m)~~ (n) If a person who:

15 (1) is at least eighteen (18) years of age; and

16 (2) is the:

17 (A) guardian, adoptive parent, adoptive grandparent,
18 custodian, or stepparent of; or

19 (B) child care worker for;

20 a child less than eighteen (18) years of age;

21 engages with the child in sexual intercourse, other sexual conduct (as
22 defined in IC 35-31.5-2-221.5), or any fondling or touching with the
23 intent to arouse or satisfy the sexual desires of either the child or the
24 adult, the person commits child seduction.

25 ~~(n)~~ (o) A person who:

26 (1) has or had a professional relationship with a child less than
27 eighteen (18) years of age whom the person knows to be less than
28 eighteen (18) years of age;

29 (2) may exert undue influence on the child because of the person's
30 current or previous professional relationship with the child; and

31 (3) uses or exerts the person's professional relationship to engage
32 in sexual intercourse, other sexual conduct (as defined in
33 IC 35-31.5-2-221.5), or any fondling or touching with the child
34 with the intent to arouse or satisfy the sexual desires of the child
35 or the person;

36 commits child seduction.

37 ~~(o)~~ (p) A law enforcement officer who:

38 (1) is at least five (5) years older than a child who is less than
39 eighteen (18) years of age;

40 (2) has contact with the child while acting within the scope of the
41 law enforcement officer's official duties with respect to the child;
42 and

43 (3) uses or exerts the law enforcement officer's professional
44 relationship with the child to engage with the child in:

45 (A) sexual intercourse;

46 (B) other sexual conduct (as defined in IC 35-31.5-2-221.5);

- 1 or
 2 (C) any fondling or touching with the child with the intent to
 3 arouse or satisfy the sexual desires of the child or the law
 4 enforcement officer;
 5 commits child seduction.
- 6 ~~(p)~~ (q) In determining whether a person used or exerted the person's
 7 professional relationship with the child to engage in sexual intercourse,
 8 other sexual conduct (as defined in IC 35-31.5-2-221.5), or any
 9 fondling or touching with the intent to arouse or satisfy the sexual
 10 desires of the child or the person under this section, the trier of fact
 11 may consider one (1) or more of the following:
- 12 (1) The age difference between the person and the child.
 - 13 (2) Whether the person was in a position of trust with respect to
 14 the child.
 - 15 (3) Whether the person's conduct with the child violated any
 16 ethical obligations of the person's profession or occupation.
 - 17 (4) The authority that the person had over the child.
 - 18 (5) Whether the person exploited any particular vulnerability of
 19 the child.
 - 20 (6) Any other evidence relevant to the person's ability to exert
 21 undue influence over the child.
- 22 ~~(q)~~ (r) **This subsection does not apply to a workplace supervisor
 23 who had a dating relationship with the child before the child was
 24 employed at the place of employment. A workplace supervisor
 25 who:**
- 26 (1) **is at least five (5) years older than a child who is less than
 27 eighteen (18) years of age;**
 - 28 (2) **supervises the child at the child's place of employment;**
 29 **and**
 - 30 (3) **uses or exerts the workplace supervisor's supervisory
 31 relationship with the child to engage with the child in:**
 - 32 (A) **sexual intercourse;**
 - 33 (B) **other sexual conduct (as defined in IC 35-31.5-2-221.5);**
 34 **or**
 - 35 (C) **any fondling or touching with the child with the intent
 36 to arouse or satisfy the sexual desires of the child or the
 37 workplace supervisor;**
- 38 **commits child seduction.**
- 39 ~~(p)~~ (s) In determining whether a workplace supervisor used or
 40 exerted the workplace supervisor's relationship with the child to
 41 engage in sexual intercourse, other sexual conduct (as defined in
 42 IC 35-31.5-2-221.5), or any fondling or touching with the intent to
 43 arouse or satisfy the sexual desires of the child or the workplace
 44 supervisor, the trier of fact may consider one (1) or more of the
 45 following:
- 46 (1) The age difference between the workplace supervisor and

- 1 **the child.**
- 2 **(2) Whether the workplace supervisor was in a position of**
- 3 **trust with respect to the child.**
- 4 **(3) Whether the workplace supervisor suggested to the child**
- 5 **that engaging or not engaging in sexual activity with the**
- 6 **workplace supervisor would or could affect the child at the**
- 7 **child's place of employment.**
- 8 **(4) The authority that the workplace supervisor had over the**
- 9 **child.**
- 10 **(5) Whether the workplace supervisor exploited any**
- 11 **particular vulnerability of the child.**
- 12 **(6) Any other evidence relevant to the workplace supervisor's**
- 13 **ability to exert undue influence over the child.**
- 14 **(t) Child seduction under this section is:**
- 15 (1) a Level 6 felony if the child is at least sixteen (16) years of age
- 16 but less than eighteen (18) years of age and the person or law
- 17 enforcement officer engaged in any fondling or touching with the
- 18 intent to arouse or satisfy the sexual desires of:
- 19 (A) the child; or
- 20 (B) the person or law enforcement officer;
- 21 (2) a Level 5 felony if the child is at least sixteen (16) years of age
- 22 but less than eighteen (18) years of age and the person or law
- 23 enforcement officer engaged in sexual intercourse or other sexual
- 24 conduct (as defined in IC 35-31.5-2-221.5) with the child;
- 25 (3) a Level 5 felony if the child is at least fourteen (14) years of
- 26 age but less than sixteen (16) years of age and the person or law
- 27 enforcement officer engaged in any fondling or touching with the
- 28 intent to arouse or satisfy the sexual desires of:
- 29 (A) the child; or
- 30 (B) the person or law enforcement officer;
- 31 (4) a Level 4 felony if the child is at least fourteen (14) years of
- 32 age but less than sixteen (16) years of age and the person or law
- 33 enforcement officer engaged in sexual intercourse or other sexual
- 34 conduct (as defined in IC 35-31.5-2-221.5) with the child;
- 35 (5) a Level 3 felony if the child is thirteen (13) years of age or
- 36 under and the person or law enforcement officer engaged in any
- 37 fondling or touching with the intent to arouse or satisfy the sexual
- 38 desires of:
- 39 (A) the child; or
- 40 (B) the person or law enforcement officer; and

1 (6) a Level 2 felony if the child is thirteen (13) years of age or
2 under and the person or law enforcement officer engaged in
3 sexual intercourse or other sexual conduct (as defined in
4 IC 35-31.5-2-221.5) with the child."

5 Renumber all SECTIONS consecutively.
(Reference is to EHB 1079 as printed February 18, 2022.)

Senator BOHACEK