

# SENATE BILL No. 404

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-30; IC 35-47.

**Synopsis:** Unlawful possession of a firearm by a child. Adds felony unlawful possession of a firearm by a child to the list of crimes for which a juvenile court shall, upon motion of the prosecuting attorney, waive jurisdiction under certain circumstances. Removes certain crimes concerning children and firearms from the list of crimes in which a juvenile court does not have jurisdiction for an alleged violation. Removes language in the unlawful carrying of a handgun statute prohibiting a person less than 18 years of age from carrying a handgun. Provides that the unlawful carrying of a handgun statute applies to a person who has been adjudicated as a delinquent child under the statute, and is at least 18 years of age but less than 23 years of age. Renames the "dangerous possession of a firearm" crime to "unlawful possession of a firearm by a child" and provides that the enhanced penalty applies if the offense was committed: (1) on or in school property; (2) within 500 feet of school property; or (3) on a school bus. Removes the reckless mens rea for unlawful possession of a firearm by a child. Makes technical changes.

**Effective:** July 1, 2025.

---

---

## Taylor G

---

---

January 13, 2025, read first time and referred to Committee on Corrections and Criminal Law.

---

---



First Regular Session of the 124th General Assembly (2025)

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 2024 Regular Session of the General Assembly.

# SENATE BILL No. 404

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 31-30-1-4, AS AMENDED BY P.L.148-2024,  
2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2025]: Sec. 4. (a) The juvenile court does not have jurisdiction  
4 over an individual for an alleged violation of:  
5 (1) IC 35-41-5-1(a) (attempted murder);  
6 (2) IC 35-42-1-1 (murder);  
7 (3) IC 35-42-3-2 (kidnapping);  
8 (4) IC 35-42-4-1 (rape);  
9 ~~(5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);~~  
10 ~~(6)~~ **(5)** IC 35-42-5-1 (robbery) if:  
11 (A) the robbery was committed while armed with a deadly  
12 weapon; or  
13 (B) the robbery results in bodily injury or serious bodily  
14 injury; or  
15 ~~(7) IC 35-42-5-2 (carjacking) (before its repeal);~~  
16 ~~(8) IC 35-47-10 (children and firearms), if charged as a felony; or~~  
17 ~~(9)~~ **(6)** any offense that may be joined under IC 35-34-1-9(a)(2)



1 with any crime listed in this subsection;  
 2 if the individual was at least sixteen (16) years of age but less than  
 3 eighteen (18) years of age at the time of the alleged violation.

4 (b) Once an individual described in subsection (a) has been charged  
 5 with any offense listed in subsection (a), the court having adult  
 6 criminal jurisdiction shall retain jurisdiction over the case if the  
 7 individual pleads guilty to or is convicted of any offense listed in  
 8 subsection (a)(1) through ~~(a)(8)~~: **(a)(5)**.

9 (c) If:

10 (1) an individual described in subsection (a) is charged with one

11 (1) or more offenses listed in subsection (a);

12 (2) all the charges under subsection (a)(1) through ~~(a)(8)~~ **(a)(5)**  
 13 resulted in an acquittal or were dismissed; and

14 (3) the individual pleads guilty to or is convicted of any offense  
 15 other than an offense listed in subsection (a)(1) through ~~(a)(8)~~;

16 **(a)(5)**;

17 the court having adult criminal jurisdiction may withhold judgment and  
 18 transfer jurisdiction to the juvenile court for adjudication and  
 19 disposition. In determining whether to transfer jurisdiction to the  
 20 juvenile court for adjudication and disposition, the court having adult  
 21 criminal jurisdiction shall consider whether there are appropriate  
 22 services available in the juvenile justice system, whether the child is  
 23 amenable to rehabilitation under the juvenile justice system, and  
 24 whether it is in the best interests of the safety and welfare of the  
 25 community that the child be transferred to juvenile court. All orders  
 26 concerning release conditions remain in effect until a juvenile court  
 27 detention hearing, which must be held not later than forty-eight (48)  
 28 hours, excluding Saturdays, Sundays, and legal holidays, after the order  
 29 of transfer of jurisdiction.

30 (d) A court having adult criminal jurisdiction, and not a juvenile  
 31 court, has jurisdiction over a person who is at least twenty-one (21)  
 32 years of age for an alleged offense:

33 (1) committed while the person was a child; and

34 (2) that could have been waived under IC 31-30-3.

35 SECTION 2. IC 31-30-3-5, AS AMENDED BY P.L.148-2024,  
 36 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2025]: Sec. 5. Except for those cases in which the juvenile  
 38 court has no jurisdiction in accordance with IC 31-30-1-4, the court  
 39 shall, upon motion of the prosecuting attorney and after full  
 40 investigation and hearing, waive jurisdiction if it finds that:

41 (1) the child is charged with:

42 **(A)** an act that, if committed by an adult, would be:



- 1           ~~(A)~~ (i) a Level 1 felony, Level 2 felony, Level 3 felony, or  
 2           Level 4 felony, except a felony defined by IC 35-48-4;  
 3           ~~(B)~~ (ii) involuntary manslaughter as a Level 5 felony under  
 4           IC 35-42-1-4;  
 5           ~~(C)~~ (iii) reckless homicide as a Level 5 felony under  
 6           IC 35-42-1-5; or  
 7           ~~(D)~~ (iv) unlawful carrying of a handgun as a felony under  
 8           IC 35-47-2-1.5; or

9           **(B) unlawful possession of a firearm by a child, if charged**  
 10           **as a felony under IC 35-47-10-5;**

11           (2) there is probable cause to believe that the child has committed  
 12           the act; and

13           (3) the child was at least sixteen (16) years of age when the act  
 14           charged was allegedly committed;

15           unless it would be in the best interests of the child and of the safety and  
 16           welfare of the community for the child to remain within the juvenile  
 17           justice system.

18           SECTION 3. IC 35-47-2-1.5, AS ADDED BY P.L.175-2022,  
 19           SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20           JULY 1, 2025]: Sec. 1.5. (a) The following terms are defined for this  
 21           section:

22           (1) "Adjudicated a mental defective" means a determination by a  
 23           court that a person:

- 24           (A) presents a danger to the person or to others; or  
 25           (B) lacks the mental capacity necessary to contract or manage  
 26           the person's affairs.

27           The term includes a finding of insanity by a court in a criminal  
 28           proceeding.

29           (2) "Alien" means any person who is not lawfully in the United  
 30           States. The term includes:

- 31           (A) any person who has:  
 32           (i) entered the United States without inspection and  
 33           authorization by an immigration officer; and  
 34           (ii) not been paroled into the United States under the federal  
 35           Immigration and Nationality Act;  
 36           (B) a nonimmigrant:  
 37           (i) whose authorized period of stay has expired; or  
 38           (ii) who has violated the terms of the nonimmigrant category  
 39           under which the person was admitted;  
 40           (C) a person paroled under the federal Immigration and  
 41           Nationality Act whose period of parole has:  
 42           (i) expired; or



- 1 (ii) been terminated; and  
 2 (D) a person subject to an order:  
 3 (i) of deportation, exclusion, or removal; or  
 4 (ii) to depart the United States voluntarily;  
 5 regardless of whether or not the person has left the United  
 6 States.  
 7 (3) "Committed to a mental institution" means the formal  
 8 commitment of a person to a mental institution by a court. The  
 9 term includes:  
 10 (A) a commitment for:  
 11 (i) a cognitive or mental defect; or  
 12 (ii) a mental illness; and  
 13 (B) involuntary commitments.  
 14 The term does not include voluntary commitments or a  
 15 commitment made for observational purposes.  
 16 (4) "Crime of domestic violence" has the meaning set forth in  
 17 IC 35-31.5-2-78.  
 18 (5) "Dangerous" has the meaning set forth in IC 35-47-14-1.  
 19 (6) "Fugitive from justice" means any person who:  
 20 (A) flees or leaves from any state to avoid prosecution for a  
 21 felony or misdemeanor offense; or  
 22 (B) flees or leaves any state to avoid testifying in a criminal  
 23 proceeding.  
 24 (7) "Indictment" means any formal accusation of a crime made by  
 25 a prosecuting attorney in any court for a crime punishable by a  
 26 term of imprisonment exceeding one (1) year.  
 27 (8) A crime or offense "punishable by a term of imprisonment  
 28 exceeding one (1) year" does not include a federal or state crime  
 29 or offense pertaining to antitrust violations, unfair trade practices,  
 30 restraints of trade, or other similar offenses relating to the  
 31 regulation of business practices.  
 32 (b) Except as provided in subsections (c) and (d), the following  
 33 persons may not knowingly or intentionally carry a handgun:  
 34 (1) A person convicted of a federal or state offense punishable by  
 35 a term of imprisonment exceeding one (1) year.  
 36 (2) A fugitive from justice.  
 37 (3) An alien.  
 38 (4) A person convicted of:  
 39 (A) a crime of domestic violence (IC 35-31.5-2-78);  
 40 (B) domestic battery (IC 35-42-2-1.3); or  
 41 (C) criminal stalking (IC 35-45-10-5).  
 42 (5) A person restrained by an order of protection issued under



- 1 IC 34-26-5.
- 2 (6) A person under indictment.
- 3 (7) A person who has been:
- 4 (A) adjudicated dangerous under IC 35-47-14-6;
- 5 (B) adjudicated a mental defective; or
- 6 (C) committed to a mental institution.
- 7 (8) A person dishonorably discharged from:
- 8 (A) military service; or
- 9 (B) the National Guard.
- 10 (9) A person who renounces the person's United States citizenship
- 11 in the manner described in 8 U.S.C. 1481.
- 12 (10) A person who **is at least eighteen (18) years of age but is**
- 13 **less than**
- 14 **(A) eighteen (18) years of age; or**
- 15 **(B) twenty-three (23) years of age and has an adjudication as**
- 16 **a delinquent child for an act described by IC 35-47-4-5**
- 17 **unless authorized under IC 35-47-10.**
- 18 (c) Subsection (b)(4)(A) and (b)(4)(B) does not apply to a person if
- 19 a court has restored the person's right to possess a firearm under
- 20 IC 35-47-4-7.
- 21 (d) A person who has:
- 22 (1) been adjudicated dangerous under IC 35-47-14-6; and
- 23 (2) successfully petitioned for the return of a firearm under
- 24 IC 35-47-14-8 with respect to the adjudication under subdivision
- 25 (1);
- 26 is not prohibited from carrying a handgun under subsection (b) on the
- 27 basis that the person was adjudicated dangerous under subdivision (1).
- 28 However, the person may still be prohibited from carrying a handgun
- 29 on one (1) or more of the other grounds listed in subsection (b).
- 30 (e) A person who violates this section commits unlawful carrying of
- 31 a handgun, a Class A misdemeanor. However, the offense is a Level 5
- 32 felony if:
- 33 (1) the offense is committed:
- 34 (A) on or in school property;
- 35 (B) within five hundred (500) feet of school property; or
- 36 (C) on a school bus; or
- 37 (2) the person:
- 38 (A) has a prior conviction of any offense under:
- 39 (i) this section;
- 40 (ii) section 1 of this chapter (carrying a handgun without a
- 41 license) (before its repeal); or
- 42 (iii) section 22 of this chapter; or



1 (B) has been convicted of a felony within fifteen (15) years  
 2 before the date of the offense.

3 SECTION 4. IC 35-47-10-5, AS AMENDED BY P.L.148-2024,  
 4 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2025]: Sec. 5. (a) A child who knowingly ~~or~~ intentionally ~~or~~  
 6 ~~recklessly~~ possesses a firearm for any purpose other than a purpose  
 7 described in section 1 of this chapter commits ~~dangerous~~ **unlawful**  
 8 possession of a firearm **by a child**, a Class A misdemeanor. However,  
 9 the offense is a Level 5 felony if: ~~the child has a prior conviction under~~  
 10 ~~this section or has been adjudicated a delinquent for an act that would~~  
 11 ~~be an offense under this section:~~

12 (1) **the child has a prior conviction under this section;**  
 13 (2) **the child has been adjudicated a delinquent for an act that**  
 14 **would be an offense under this section; or**  
 15 (3) **the child committed the offense:**  
 16 (A) **on or in school property;**  
 17 (B) **within five hundred (500) feet of school property; or**  
 18 (C) **on a school bus.**

19 (b) A child who knowingly or intentionally provides a firearm to  
 20 another child whom the child knows:

21 (1) is ineligible for any reason to purchase or otherwise receive  
 22 from a dealer a firearm; or  
 23 (2) intends to use the firearm to commit a crime;  
 24 commits a Level 5 felony. However, the offense is a Level 3 felony if  
 25 the other child uses the firearm to commit murder (IC 35-42-1-1).

