

# HOUSE BILL No. 1220

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-30-1-4; IC 35-45-9.

**Synopsis:** Criminal gang laws and juvenile court jurisdiction. Modifies the definition of "criminal gang" to include a group with at least three members that collectively engages in a pattern of criminal gang activity and is a covert or overt organization that has a command structure. Specifies that criminal gang activity can only be committed by a member of a criminal gang. Removes criminal gang activity, criminal gang intimidation, and certain drug offenses from the list of crimes that a juvenile court does not have jurisdiction over.

**Effective:** July 1, 2014.

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January 14, 2014, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1220

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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.158-2013,  
2 SECTION 315, AND AS AMENDED BY P.L.214-2013, SECTION  
3 25, IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The juvenile court does not  
5 have jurisdiction over an individual for an alleged violation of:  
6 (1) IC 35-41-5-1(a) (attempted murder);  
7 (2) IC 35-42-1-1 (murder);  
8 (3) IC 35-42-3-2 (kidnapping);  
9 (4) IC 35-42-4-1 (rape);  
10 (5) IC 35-42-4-2 (criminal deviate conduct) (~~repealed~~); (**before**  
11 **its repeal**);  
12 (6) IC 35-42-5-1 (robbery) if:  
13 (A) the robbery was committed while armed with a deadly  
14 weapon; or  
15 (B) the robbery results in bodily injury or serious bodily  
16 injury;



1 (7) IC 35-42-5-2 (carjacking) ~~(repeated)~~; **(before its repeal)**;  
 2 ~~(8) IC 35-45-9-3 (criminal gang activity);~~  
 3 ~~(9) IC 35-45-9-4 (criminal gang intimidation);~~  
 4 ~~(10) (8) IC 35-47-2-1 (carrying a handgun without a license), if~~  
 5 ~~charged as a felony;~~  
 6 ~~(11) (9) IC 35-47-10 (children and firearms), if charged as a~~  
 7 ~~felony;~~  
 8 ~~(12) (10) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or~~  
 9 ~~(13) (11) any offense that may be joined under IC 35-34-1-9(a)(2)~~  
 10 ~~with any crime listed in subdivisions (1) through (12); (10);~~  
 11 if the individual was at least sixteen (16) years of age at the time of the  
 12 alleged violation.

13 (b) The juvenile court does not have jurisdiction for an alleged  
 14 violation of manufacturing or dealing in cocaine or a narcotic drug (IC  
 15 35-48-4-1); dealing in methamphetamine (IC 35-48-4-1.1); dealing in  
 16 a schedule I, II, or III controlled substance (IC 35-48-4-2); or dealing  
 17 in a schedule IV controlled substance (IC 35-48-4-3); if:

- 18 (1) the individual has a prior unrelated conviction under  
 19 IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or  
 20 (2) the individual has a prior unrelated juvenile adjudication that,  
 21 if committed by an adult, would be a crime under IC 35-48-4-1,  
 22 IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;

23 and the individual was at least sixteen (16) years of age at the time of  
 24 the alleged violation:

25 (c) (b) Once an individual described in subsection (a) or (b) has  
 26 been charged with any crime listed in subsection (a), or (b); the court  
 27 having adult criminal jurisdiction shall retain jurisdiction over the case  
 28 even if the individual pleads guilty to or is convicted of a lesser  
 29 included offense. A plea of guilty to or a conviction of a lesser included  
 30 offense does not vest jurisdiction in the juvenile court.

31 SECTION 2. IC 35-45-9-1, AS AMENDED BY P.L.192-2007,  
 32 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2014]: Sec. 1. As used in this chapter, "criminal gang" means  
 34 a group with at least three (3) members that:

35 (1) specifically:

36 (1) either (A) promotes, sponsors, or assists in, or **participates**  
 37 **in;** or (B) **participates in;** or **and**

38 (2) (B) requires as a condition of membership or continued  
 39 membership;

40 the commission of a felony or an act that would be a felony if  
 41 committed by an adult; or the offense of battery (IC 35-42-2-1);  
 42 **and**



1           **(2) collectively:**  
2           **(A) engages in a pattern of criminal gang activity; and**  
3           **(B) is a covert or overt organization that has a command**  
4           **structure.**  
5           SECTION 3. IC 35-45-9-4, AS AMENDED BY P.L.158-2013,  
6           SECTION 539, IS AMENDED TO READ AS FOLLOWS  
7           [EFFECTIVE JULY 1, 2014]: Sec. 4. A ~~person~~ **member of a criminal**  
8           **gang** who threatens another person because the other person:  
9           (1) refuses to join a criminal gang;  
10           (2) has withdrawn from a criminal gang; or  
11           (3) wishes to withdraw from a criminal gang;  
12           commits criminal gang intimidation, a Level 5 felony.

