

# Sex Crimes: Definitions and Penalties

## Indiana

*Last Updated: April 2023*

### Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"><li>• Knowingly or intentionally having sexual intercourse with another person or knowingly or intentionally causing another person to perform or submit to other sexual conduct when:<ul style="list-style-type: none"><li>• The other person is compelled by force or imminent threat of force;</li><li>• The other person is unaware that the sexual intercourse or other sexual contact is occurring;</li><li>• The other person is so mentally disabled or deficient that consent to sexual intercourse or other sexual contact cannot be given; or</li><li>• the person disregarded the other person's attempts to physically, verbally, or by other visible conduct refuse the person's acts.</li></ul></li><li>• An offense described in the previous subsection (a) is a Level 1 felony if the defendant commits the offense of rape and:<ul style="list-style-type: none"><li>• the offense is committed by using or threatening the use of deadly force;</li><li>• the offense is committed while armed with a deadly weapon;</li><li>• the offense results in serious bodily injury to a person other than a defendant; or</li><li>• the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in <a href="#">IC 16-42-19-2(1)</a>) or a controlled substance (as defined in <a href="#">IC 35-48-1-9</a>), or knowing that the victim was furnished with a drug or controlled substance without the victim's knowledge.</li></ul></li></ul>
What are the punishments for this crime?	<ul style="list-style-type: none"><li>• Rape is a Level 3 felony or a Level 1 felony.</li><li>• A person who commits a Level 3 felony (after June 30, 2014) shall be imprisoned for a fixed term of between 3 and 16 years, with the advisory sentence being 9 years. In addition, the person may be fined not more than \$10,000.</li><li>• A person who commits a Level 1 felony (after June 30, 2014) shall be imprisoned for a fixed term of between 20 and 50 years, with the advisory sentence being 30 years. In addition, the person may be fined not more than \$10,000.</li><li>• (c) In addition to any other penalty imposed for a violation of this section, the court shall order the person to pay restitution under IC 35-50-5-3 for expenses related to pregnancy and childbirth if the pregnancy is a result of the offense.</li></ul>

Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> <li>• “<b>Deadly force</b>” means force that creates a substantial risk of serious bodily injury.</li> <li>• “<b>Other sexual conduct</b>” means an act involving (1) a sex organ of one person and the mouth or anus of another person; or (2) the penetration of the sex organ or anus of a person by an object.</li> <li>• “<b>Serious bodily injury</b>” means bodily injury that creates a substantial risk of death or that causes: Serious permanent disfigurement; Unconsciousness; Extreme pain; Permanent or protracted loss or impairment of the function of a bodily member or organ; or Loss of a fetus.</li> <li>• “<b>Sexual intercourse</b>” means an act that includes any penetration of the female sex organ by the male sex organ.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Ind. Code § <a href="#">35-42-4-1</a></li> <li>• “Other sexual conduct”, Ind. Code Ann. § <a href="#">35-31.5-2-221.5</a></li> <li>• Definitions, <a href="#">Title 35, Article 31.5, chapter 2</a></li> <li>• Sentencing, Ind. Code Ann. § <a href="#">35-50-2-4</a> (Level 1 Felony) and § <a href="#">35-50-2-5</a> (Level 3 Felony)</li> </ul>

## Sexual Battery

Question	Answer
How is it defined?	<p>A person who, with intent to arouse or satisfy the person’s own sexual desires or the sexual desires of another person:</p> <ul style="list-style-type: none"> <li>• Touches another person when that person is: <ul style="list-style-type: none"> <li>• Compelled to submit to the touching by force or the imminent threat of force; or</li> <li>• So mentally disabled or deficient that consent to the touching cannot be given; or</li> </ul> </li> <li>• Touches another person’s genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring.</li> </ul>
What are the punishments for this crime?	<p>Sexual battery is a Level 6 felony.</p> <p>A person who commits a Level 6 felony (after June 30, 2014) shall be imprisoned for a fixed term of between 6 months and 2 ½ years, with the advisory sentence being 1 year. In addition, the person may be fined not more than \$10,000. The court may enter a judgment of conviction of a Class A misdemeanor and sentence accordingly.</p> <p>Sexual battery is a Level 4 felony if:</p> <ul style="list-style-type: none"> <li>• it is committed by using or threatening the use of deadly force;</li> <li>• it is committed while armed with a deadly weapon;</li> <li>• the commission of the offense is facilitated by furnishing the victim, without the victim’s knowledge,</li> </ul>

	<p>with a drug (as defined in <a href="#">IC 16-42-19-2(1)</a>) or a controlled substance (as defined in <a href="#">IC 35-48-1-9</a>), or knowing that the victim was furnished with a drug or controlled substance without the victim's knowledge.</p> <p>It is punishable by imprisonment for a fixed term of between 2 and 12 years, with the advisory sentence being 6 years. In addition, the person may be fined not more than \$10,000.</p>
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> <li>• See Rape for relevant definitions.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Ind. Code § <a href="#">35-42-4-8</a></li> <li>• Definitions, <a href="#">Title 35, Article 31.5, chapter 2</a></li> <li>• Sentencing, Ind. Code Ann. § <a href="#">35-50-2-5.5</a> and § <a href="#">35-50-2-7</a></li> </ul>

## Child Seduction

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• If a person who is at least 18 years of age and is: <ul style="list-style-type: none"> <li>• The guardian, adoptive parent or grandparent, custodian, or stepparent of; or</li> <li>• The child care worker for;</li> </ul> </li> </ul> <p>a child less than 18 years of age;</p> <p>engages with the child in sexual intercourse or other sexual conduct, or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult, the person commits child seduction.</p> <ul style="list-style-type: none"> <li>• A person commits child seduction if the person: <ul style="list-style-type: none"> <li>• Has or had a professional relationship with a child less than 18 years of age whom defendant knows to be less than 18 years of age;</li> <li>• May exert undue influence on the child because of defendant's current or previous professional relationship with the child; and</li> <li>• Uses or exerts defendant's professional relationship to engage in sexual intercourse, other sexual conduct (as defined in <a href="#">IC 35-31.5-2-221.5</a>), or any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the person.</li> </ul> </li> <li>• <b>Note:</b> In determining whether defendant used or exerted defendant's professional relationship with the child to engage in the penalized behavior, the trier of fact may consider one or more of the following: <ul style="list-style-type: none"> <li>• The age difference between defendant and the child;</li> <li>• Whether defendant was in a position of trust with respect to the child;</li> <li>• Whether defendant's conduct with the child violated any ethical obligations of defendant's</li> </ul> </li> </ul>

- profession or occupation;
- The authority that defendant had over the child;
- Whether defendant exploited any particular vulnerability of the child;
- Any other evidence relevant to defendant's ability to exert undue influence over the child.
- If defendant:
  - is a law enforcement officer who is at least five years older than a child who is less than 18;
  - has contact with the child while acting within the scope of the law enforcement officer's official duties with respect to the child; and
  - uses or exerts the law enforcement officer's professional relationship with the child to engage with the child in sexual intercourse, other sexual conduct (as defined in [IC 35-31.5-2-221.5](#)), or any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the law enforcement officer.

What are the punishments for this crime?

Child seduction is a:

- Level 6 felony if the child is at least 16 but is less than 18 and the defendant engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the person or law enforcement officer.
- a person who commits Level 6 felony shall be imprisoned for a fixed term of between 6 months and 2 ½ years, with the advisory sentence being 1 year.
- Level 5 felony if the child is at least 16 but less than 18 and the person or law enforcement officer engaged in sexual intercourse or other sexual contact (as defined in [IC 35-31.5-2-221.5](#)) with the child.
- a person who commits a Level 5 felony shall be imprisoned for a fixed term of between 1 and 6 years, with the advisory sentence being 3 years.
- Level 5 felony if the child is at least 14 but is less than 16 and the person or law enforcement officer engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the person or law enforcement officer.
  - a person who commits a Level 5 felony shall be imprisoned for a fixed term of between 1 and 6 years, with the advisory sentence being 3 years.
- Level 4 felony if the child is at least 14 but is less than 16 and the person or law enforcement officer engaged in sexual intercourse or other sexual conduct (as defined in [IC 35-31.5-2-221.5](#)) with the child.
  - a person who commits a Level 4 felony shall be imprisoned for a fixed term of between 2 and 12 years, with the advisory sentence being 6 years.
- Level 3 felony if the child is 13 years of age or under and the person or law enforcement officer engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the person or law enforcement officer.
  - a person who commits a Level 3 felony shall be imprisoned for a fixed term of between 3 and 16 years, with the advisory sentence being 9 years.
- Level 2 felony if the child is 13 years of age or under and the person or law enforcement officer engaged in sexual intercourse or other sexual conduct (as defined in [IC 35-31.5-2-221.5](#)) with the child.

- a person who commits a Level 2 felony shall be imprisoned for a fixed term between 10 and 30 years, with an advisory sentence of 17.5 years.
- In addition, a person may be fined not more than \$10,000 for Level 1 through 6 felonies.

Anything else I should know?

The following definitions are relevant to this crime:

- **“Adoptive parent”** means an adult who has become a parent of a child through adoption.
- **“Adoptive grandparent”** means the parent of an adoptive parent.
- **“Charter school”** means a public elementary school or secondary school established under this article that: (1) is nonsectarian and nonreligious; and (2) operates under a charter.
- **“Child care worker”** means a person who:
  - Provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility;
  - Is employed by a:
    - school corporation;
    - charter school;
    - nonpublic school; or
    - special education cooperative

attended by a child who is the victim of this offense; or

- Is:
  - Affiliated with a:
    - school corporation;
    - charter school;
    - nonpublic school; or
    - special education cooperative

attended by a child who is the victim of this offense, regardless of how or whether the person is compensated;

- In a position of trust in relation to a child who attends the school or cooperative;
- Engaged in the provision of care or supervision to a child who attends the school or cooperative; and
- At least 4 years older than the child who is the victim of this offense.

**Note:** The term does not include a student who attends the school or cooperative.

- **“Custodian”** means any person who resides with a child and is responsible for the child's welfare.
- **“Mental health professional”** means:
  - (1) a mental health counselor licensed under IC 25-23.6-8.5;
  - (2) a psychologist; or
  - (3) a psychiatrist.
- **“Military recruiter”** means a member of the US military or reserve forces referenced this section.
- **“Nonpublic school”** has the meaning set forth in [IC 20-18-2-12](#).

	<ul style="list-style-type: none"> <li>• Additional definitions are included in sections (i) through (l) of this section.</li> <li>• “<b>Other sexual conduct</b>” means an act involving: Sex organ of one person and the mouth or anus of another person; or the penetration of the sex organ or anus of a person by an object.</li> <li>• A person has a “<b>professional relationship</b>” with a child if the person: Has a license issued by the state or a political subdivision on the basis of the person's training and experience that authorizes the person to carry out a particular occupation; or Is employed in a position in which counseling, supervising, instructing, or recruiting children forms a significant part of the employment; and The person has a relationship with a child that is based on the person's employment or licensed status. The term includes a relationship between a child and a mental health professional or military recruiter. The term does not include a coworker relationship between a child and a person described in the second bullet above.</li> <li>• “<b>Stepparent</b>” means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.</li> <li>• See Rape for additional relevant definitions.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Ind. Code § 35-42-4-7</li> <li>• Sentencing, Ind. Code Ann. Title 35, Article 50, Chapter 2</li> <li>• Definitions, <a href="#">Title 35, Article 31.5, chapter 2</a></li> <li>• Sentencing, Ind. Code Ann. §§ <a href="#">35-50-2-4.5</a> (Level 2 Felony), <a href="#">35-50-2-5</a> (Level 3 Felony), <a href="#">35-50-2-5.5</a> (Level 4 Felony), <a href="#">35-50-2-6</a> (Level 5 Felony), and <a href="#">35-50-2-7</a> (Level 6 Felony)</li> <li>• “Adoptive parent,” Ind. Code § <a href="#">31-9-2-6</a></li> <li>• “Charter school,” Ind. Code § <a href="#">IC 20-18-2-2.5</a></li> </ul>

## Child Molesting

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• A person who, with a child under 14 years of age, knowingly or intentionally performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) commits child molesting (referred to below as child molesting (Type 1)) or</li> <li>• A person who, with a child under 14 years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting (Type 2).</li> <li>• A person may be convicted of attempted child molesting of an individual at least 14 years of age if the person believed the individual to be a child under 14 years of age at the time the person attempted to commit the offense.</li> <li>• It is a defense to a prosecution under this section that the accused person reasonably believed that the child was 16 years of age or older at the time of the conduct, unless: <ul style="list-style-type: none"> <li>• the offense is committed by using or threatening the use of deadly force or while armed with a</li> </ul> </li> </ul>

	<p>deadly weapon;</p> <ul style="list-style-type: none"> <li>• the offense results in serious bodily injury; or</li> <li>• the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.</li> </ul>
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> <li>• Child molesting (Type 1) is a Level 3 felony (punishable by imprisonment for a fixed term between 3 and 16 years, with an advisory sentence of 9 years, and a potential fine of not more than \$10,000), but is a Level 1 felony (punishable by imprisonment for a fixed term between 20 and 40 years, with an advisory sentence of 30 years, and a potential fine of not more than \$10,000) if: <ul style="list-style-type: none"> <li>• it is committed by a person at least 21 years of age;</li> <li>• it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;</li> <li>• it results in serious bodily injury;</li> <li>• the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; or</li> <li>• it results in the transmission of a serious sexually transmitted disease and the person knew that the person was infected with the disease.</li> </ul> </li> <li>• Child molesting (Type 2) is a Level 4 felony (punishable by imprisonment for a fixed term between 2 and 12 years, with an advisory sentence of 6 years, and a potential fine of not more than \$10,000), but is a Level 2 felony (punishable by imprisonment for a fixed term between 10 and 30 years, with an advisory sentence of 17 ½ years, and a fine of not more than \$10,000) if: <ul style="list-style-type: none"> <li>• it is committed by using or threatening the use of deadly force;</li> <li>• it is committed while armed with a deadly weapon; or</li> <li>• the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.</li> </ul> </li> <li>• In addition to any other penalty imposed for a violation of this section, the court shall order the person to pay restitution under IC 35-50-5-3 for expenses related to pregnancy and childbirth if the pregnancy is a result of the offense.</li> </ul>
<p>Anything else I should know?</p>	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> <li>• <b>“Other sexual conduct”</b> means an act involving: <ul style="list-style-type: none"> <li>• a sex organ of one person and the mouth or anus of another person; or</li> <li>• or the penetration of the sex organ or anus of a person by an object.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• “<b>Drug</b>” is defined in Ind. Code § 16-42-19-2</li> <li>• “<b>Controlled substance</b>” is defined in Ind. Code § 35-48-1-9.</li> </ul> <p>It is a defense to a prosecution for child molesting that the accused person reasonably believed that the child was 16 years of age or older at the time of the conduct, unless:</p> <ul style="list-style-type: none"> <li>• the offense was committed by using or threatening the use of deadly force or while armed with a deadly weapon;</li> <li>• the offense resulted in serious bodily injury; or</li> <li>• the commission of the offense was facilitated by furnishing the child, without the child’s knowledge, with a drug or a controlled substance, or knowing that the child was furnished with the drug or controlled substance without the child's knowledge.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Ind. Code § <a href="#">35-42-4-3</a></li> <li>• Definitions, <a href="#">Title 35, Article 31.5, chapter 2</a></li> <li>• Sentencing, Ind. Code Ann. §§ <a href="#">35-50-2-4</a> (Level 1 Felony), <a href="#">35-50-2-4.5</a> (Level 2 Felony), <a href="#">35-50-2-5</a> (Level 3 Felony), and <a href="#">35-50-2-5.5</a> (Level 4 Felony)</li> </ul>

### **Vicarious sexual gratification; fondling in the presence of a minor**

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• A person 18 years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of 16 to touch or fondle himself or herself or another child under the age of 16 with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Level 5 felony. However, the offense is: <ul style="list-style-type: none"> <li>• a Level 4 felony if a child involved in the offense is under the age of 14; and</li> <li>• a Level 3 felony if: <ul style="list-style-type: none"> <li>• the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;</li> <li>• the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; or</li> <li>• the commission of the offense results in serious bodily injury.</li> </ul> </li> </ul> </li> <li>• A person 18 years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of 16 to <ul style="list-style-type: none"> <li>• (1) engage in sexual intercourse with another child under 16 years of age;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• (2) engage in sexual conduct with an animal other than a human being; or</li> <li>• (3) engage in other sexual conduct (as defined in IC 35-31.5-2-221.5) with another person;</li> </ul> <p>with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Level 4 felony. However, the offense is a Level 3 felony if any child involved in the offense is less than 14 years of age, and the offense is a Level 2 felony if the offense is committed by using or threatening the use of deadly force, if the offense is committed while armed with a deadly weapon, if the offense results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.</p> <ul style="list-style-type: none"> <li>• A person 18 years of age or older who knowingly or intentionally: <ul style="list-style-type: none"> <li>• engages in sexual intercourse;</li> <li>• engages in other sexual conduct (as defined in IC 35-31.5-2-221.5); or</li> <li>• touches or fondles the person's own body;</li> </ul> </li> </ul> <p>in the presence of a child less than 14 years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Level 6 felony.</p>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• A person who commits (after June 30, 2014): <ul style="list-style-type: none"> <li>• a Level 2 felony for a fixed term between 10 and 30 years, with an advisory sentence of 17.5 years.</li> <li>• a Level 3 felony shall be imprisoned for a fixed term of between 3 and 16 years, with the advisory sentence being 9 years.</li> <li>• a Level 4 felony shall be imprisoned for a fixed term of between 2 and 12 years, with the advisory sentence being 6 years.</li> <li>• a Level 5 felony shall be imprisoned for a fixed term of between 1 and 6 years, with the advisory sentence being 3 years.</li> <li>• a Level 6 felony shall be imprisoned for a fixed term of between 6 months and 2 ½ years, with the advisory sentence being 1 year.</li> </ul> </li> <li>• In addition, a person may be fined not more than \$10,000 for Level 1 through 6 felonies.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See Rape, Child Molesting, Child Seduction, Sexual Battery, and other referenced sections for relevant definitions.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Ind. Code § <a href="#">35-42-4-5</a></li> <li>• Definitions, <a href="#">Title 35, Article 31.5, chapter 2</a></li> <li>• Sentencing, Ind. Code Ann. §§ <a href="#">35-50-2-4.5</a> (Level 2 Felony), <a href="#">35-50-2-5</a> (Level 3 Felony), <a href="#">35-50-2-5.5</a> (Level 4 Felony), <a href="#">35-50-2-6</a> (Level 5 Felony), and <a href="#">35-50-2-7</a> (Level 6 Felony)</li> <li>• “Drug,” Ind. Code. Ann. § <a href="#">IC 16-42-19-2(1)</a></li> <li>• “Controlled Substance,” Ind. Code. Ann. § <a href="#">IC 35-48-1-9</a></li> <li>• “Other sexual contact,” Ind. Code. Ann. § <a href="#">IC 35-31.5-2-221.5</a></li> </ul>

## Sexual Misconduct with a Minor

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• A person at least 18 years of age who knowingly or intentionally performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with a child less than 16 years of age, commits sexual misconduct with a minor (referred to below as sexual misconduct with a minor (Type 1)) or</li> <li>• A person at least 18 years of age who knowingly or intentionally performs or submits to any fondling or touching with a child less than 16 years of age with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor (referred to below as sexual misconduct with a minor (Type 2)).</li> </ul>
What are the punishments for this crime?	<p>Sexual misconduct with a minor (Type 1) is a Level 5 felony.</p> <ul style="list-style-type: none"> <li>• A person who commits a Level 5 felony shall be imprisoned for a fixed term of between 1 and 6 years, with the advisory sentence being 3 years. In addition, a person may be fined not more than \$10,000.</li> </ul> <p>However, the offense is:</p> <ul style="list-style-type: none"> <li>• a Level 4 felony if committed by a person at least 21 years of age; and</li> <li>• a Level 1 felony if:               <ul style="list-style-type: none"> <li>• it was committed by using or threatening the use of deadly force or while armed with a deadly weapon;</li> <li>• it resulted in serious bodily injury;</li> <li>• the commission of the offense was facilitated by furnishing the victim, without the victim's knowledge, with a drug or a controlled substance or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.</li> </ul> </li> <li>• A person who commits a Level 4 felony shall be imprisoned for a fixed term of between 2 and 12 years, with the advisory sentence being 6 years.</li> <li>• A person who commits a Level 1 felony (after June 30, 2014) shall be imprisoned for a fixed term of between 20 and 40 years, with the advisory sentence being 30 years.</li> <li>• In addition, a person may be fined not more than \$10,000 for Level 1 and Level 4 felonies.</li> </ul> <p>Sexual misconduct with a minor (Type 2) is a Level 6 felony.</p> <ul style="list-style-type: none"> <li>• A person who commits a Level 6 felony shall be imprisoned for a fixed term of between 6 months and 2 ½ years, with the advisory sentence being 1 year. In addition, a person may be fined not more than \$10,000.</li> </ul>

However, the offense is:

- a Level 5 felony if committed by a person at least 21 years of age; and
- a Level 2 if:
  - it was committed by using or threatening the use of deadly force;
  - it was committed while armed with a deadly weapon; or
  - the commission of the offense was facilitated by furnishing the child, without the child's knowledge, with a drug or a controlled substance, or knowing that the child was furnished with the drug or controlled substance without the child's knowledge.
- A Level 2 felony is punishable by imprisonment for a fixed term between 10 and 30 years, with an advisory sentence of 17.5 years.
- A person who commits a Level 5 felony shall be imprisoned for a fixed term of between 1 and 6 years, with the advisory sentence being 3 years.
- In addition, a person may be fined not more than \$10,000 for Level 2 and Level 5 felonies.

Anything else I should know?

See "Child Molesting" and sections referenced herein for definitions relevant to this crime.

It is a defense that the accused person reasonably believed that the child was at least 16 years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) (if the person is at least 18 years of age who knowingly or intentionally performs or submits to sexual intercourse or other conduct with a child less than 16, and if it is committed by using or threatening the use of deadly force, if while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug or controlled substance or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge) or (b)(2) (if the person was at least 18 years of age who knowingly or intentionally performs or submits to any fondling or touching with a child less than 16 years of age with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, and if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug or controlled substance or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge).

It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

It is a defense to a prosecution for sexual misconduct with a minor if all the following apply:

- The person is not more than 4 years older than the victim;
- The relationship between the person and the victim was a dating relationship or an ongoing personal relationship (not including a family relationship);
- The crime:

	<ul style="list-style-type: none"> <li>• was not committed by a person who is at least 21 years of age;</li> <li>• was not committed by using or threatening the use of deadly force;</li> <li>• was not committed while armed with a deadly weapon;</li> <li>• did not result in serious bodily injury;</li> <li>• was not facilitated by furnishing the victim, without the victim's knowledge, with a drug or a controlled substance, or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and</li> <li>• was not committed by a person having a position of authority or substantial influence over the victim.</li> </ul> <ul style="list-style-type: none"> <li>• The person has not committed another sex offense against any other person;</li> <li>• The person is not promoting prostitution (as defined in <a href="#">IC 35-45-4-4</a>) with respect to the victim even though the person has not been charged with or convicted of the offense.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Ind. Code § 35-42-4-9</li> <li>• Definitions, <a href="#">Title 35, Article 31.5, chapter 2</a></li> <li>• Sentencing, Ind. Code Ann. Title 35, Article 50, Chapter 2</li> <li>• “Other sexual conduct”, Ind. Code Ann. § <a href="#">35-31.5-2-221.5</a></li> <li>• “Drug,” Ind. Code. Ann. § <a href="#">IC 16-42-19-2(1)</a></li> <li>• “Controlled Substance,” Ind. Code. Ann. § <a href="#">IC 35-48-1-9</a></li> </ul>

## Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Indiana does not criminalize sodomy.</li> <li>• Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 588 (2003).</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N/A</li> </ul>

Statutory citation(s):

- Ind. Code § 35-1.89-1, which criminalized sodomy, was repealed in 1976