

To: Prosecutors

From: IPAC

Date: May 15, 2013

Re: Legislative Services Agency Digests of Criminal Law Related Bills

The Legislative Services Agency produces digests for all bills that pass the General Assembly each year. Please find below the digests of criminal law related bills passed by the legislature and signed into law after the 2013 session. The summaries do not include every legal change but instead provide an overview of the bill. For complete text of each bill, please visit the Indiana General Assembly web site or the legislative page on the IPAC site.

DIGEST OF HB 1006 ---Criminal Code Revision Bill

Various changes to the criminal code. Makes various changes to the criminal code, including changes to the law concerning community corrections, probation, sentencing, probation funding, drug and alcohol program funding, involuntary manslaughter, communicable disease crimes, battery, hazing, obstruction of traffic crimes, interference with medical services crimes, kidnapping, confinement, criminal mischief, railroad mischief, computer crimes, theft, deception and fraud crimes, timber spiking, offenses against general public administration, criminal gang activity crimes, stalking, offenses against public health, child care provider crimes, weapon crimes, drug crimes, protection zones, and rape. Repeals the law concerning criminal deviate conduct, and consolidates the crime of criminal deviate conduct into the crime of rape. Changes the phrase "deviate sexual conduct" to "other sexual conduct". Repeals laws concerning carjacking, and failure of a student athlete to disclose recruitment. Removes the current four level felony penalty classifications and replaces that classification with a six level felony penalty classification. Assigns new felony penalties to each crime. Permits a judge to contact the local department of child services directly to report suspected cases of child abuse or neglect under certain conditions, and provides that a child who lives in the same household as a person charged with and awaiting trial for certain sex offenses is a child in need of services. Removes the misdemeanor penalty for the entry or attempted entry by a person under the age of 21 into certain facilities that permit gambling and makes the violation an infraction. Urges the legislative council to: (1) require an existing study committee to evaluate the criminal law statutes in IC 7.1 and IC 9 and to make recommendations to the general assembly for the modification of the criminal law statutes in those titles; (2) study recidivism in Indiana; (3) study criminal justice funding issues; (4) study advisory sentences; and (5) study the suspendibility of sentences. Makes technical corrections. Makes conforming amendments. (The introduced version of this bill was prepared by the criminal code evaluation commission.)

DIGEST OF HB 1482 ---Expungement

Expungement. Allows a court to enter judgment of conviction as a Class D felony with the express provision that the conviction will be converted to a conviction as a Class A misdemeanor if the defendant fulfills certain conditions. Requires a court to seal the arrest records of a person who was arrested but not prosecuted or whose conviction was overturned on appeal. Provides that a court shall expunge records concerning misdemeanor convictions and minor Class D felony convictions under certain circumstances, and that a court may expunge records concerning certain more serious felony convictions. Specifies that misdemeanor and minor Class D felony records ordered expunged by the court are removed or sealed, and that more serious felony records ordered expunged are marked as expunged but remain public records. Permits a law enforcement officer to have access to certain expunged records without a court order. Establishes a procedure to expunge records, and requires payment of the civil filing fee to petition to expunge a conviction. Provides that a person may file a petition to expunge more than one conviction, and provides that a person may only petition for expungement once in the person's lifetime. Provides that a petition to expunge a conviction may be filed not earlier than: (1) five years from the date of conviction, in the case of a misdemeanor; (2) eight years from the date of conviction in the case of minor Class D felonies; (3) eight years from the date the sentence is completed in the case of more serious felonies; and (4) ten years from the date the sentence is completed in the case of the most serious felonies. Requires consent of the prosecutor to petition for expungement of the most serious felonies, and prohibits granting expungement in the case of sex and violent offenders and persons convicted of specified serious crimes. Provides that the civil rights of a person whose records are expunged are restored, and requires a person questioned about a previous conviction for employment or other certain other purposes be asked about the previous conviction in a form such as "Have you ever been arrested for or convicted of a crime that has not been expunged by a court?" Specifies that an expunged conviction is not admissible in an action for negligent hiring, admission, or licensure. Repeals superseded provisions concerning expungement and restricted disclosure of records.

Digest of HB 1053—Child Pornography & Sex Offenders

Sex offenses and sex offenders. Requires the department of correction to remove from the public portal of the sex offender registry the information relating to a sex or violent offender who is deceased or no longer required to register. Adds the vehicle identification number of the vehicle owned or regularly operated by the offender to the information required for sex offender registration, requires an offender to report certain information changes within 72 hours, and provides that an offender's driver's license or identification card must contain the offender's current address and physical description. Provides that an offender who is scheduled to move must register in the appropriate location within 72 hours. Removes the requirement that a local law enforcement authority contact offenders by mail and permits local law enforcement authorities to contact the offenders in a manner approved by the department of correction. Makes it possession of child pornography, a Class D felony, for a person to knowingly or intentionally possess certain items that: (1) depict or describe sexual conduct by a child who the person knows is less than 18 years of age or who appears to be less than 18 years of age; and (2) lack serious literary, artistic, political, or scientific value. Makes knowingly or intentionally: (1) sending or bringing into Indiana obscene matter for sale or distribution; or (2) offering to distribute, distributing, or exhibiting to another person obscene matter; a Class D felony instead of a Class A misdemeanor if the obscene matter depicts or describes sexual conduct involving any person

who is or appears to be under 18 years of age. Makes knowingly or intentionally engaging in, participating in, managing, producing, sponsoring, presenting, exhibiting, photographing, filming, or videotaping any obscene performance a Class D felony instead of a Class A misdemeanor if the obscene performance depicts or describes sexual conduct involving any person who is or appears to be under 18 years of age. Merges, effective July 1, 2014, the offense of criminal deviate conduct into the crime of rape and repeals the criminal deviate conduct statute. Increases the sexual assault victim's fee to a range between \$500 and \$5,000. (Under current law, the fee ranges from \$250 to \$1,000.) Adds: (1) promotion of human trafficking; (2) promotion of human trafficking of a minor; (3) sexual trafficking of a minor; and (4) human trafficking; to the offenses for which a convicted individual is required to pay the sexual assault victims fee. Makes conforming amendments and technical corrections. (The introduced version of this bill was prepared by the criminal law and sentencing policy study committee.)

Digest of Senate Bill 53—Child Seduction

Child seduction. Defines "professional relationship" and provides that a person who: (1) has a professional relationship with a child; (2) may exert undue influence on the child because of the professional relationship; and (3) uses the person's professional relationship to engage in sexual conduct with a child at least 16 years of age but less than 18 years of age; commits child seduction. Provides that child seduction is a Class C felony if it involves intercourse or deviate sexual conduct, and a Class D felony if it involves fondling. (Under current law, child seduction is a Class D felony in all cases.)

Digest of House Enrolled Act 1108---Sentencing Alternatives for Youthful Offenders

Sentencing alternatives for youthful offenders. Establishes sentencing alternatives for courts with criminal jurisdiction for: (1) offenders who are less than 18 years of age who have been waived from a juvenile court to a court with criminal jurisdiction and who are charged as adult offenders; and (2) offenders who are less than 18 years of age who do not come under the jurisdiction of a juvenile court because the offenders are charged with certain criminal offenses. Provides that if such an offender is convicted of committing a felony or pleads guilty to committing a felony, a criminal court may: (1) impose an appropriate criminal sentence on the offender; (2) suspend the criminal sentence imposed; (3) order the offender to be placed into the custody of the department of correction to be placed in a juvenile facility of the division of youth services, if the department agrees to the placement; and (4) provide that the successful completion of the placement of the offender in the juvenile facility is a condition of the suspended criminal sentence. Provides that when an offender becomes 18 years of age, the sentencing court must hold a review hearing concerning the offender before the offender becomes 19 years of age. Allows the sentencing court, after the review hearing, to: (1) continue the offender's placement in a juvenile facility until the objectives of the sentence imposed on the offender have been met, if the sentencing court finds that the objectives of the sentence imposed on the

offender have not been met; (2) discharge the offender if the sentencing court finds that the objectives of the sentence imposed on the offender have been met; (3) order execution of all or part of the offender's suspended criminal sentence in an adult facility of the department of correction; or (4) place the offender in home detention, in a community corrections program, on probation, or in any other appropriate alternative sentencing program. Prohibits a court from modifying the sentences of certain serious offenders following a review hearing if the prosecuting attorney objects.

Digest of Senate Bill 347---Child Solicitation

Child solicitation and attempt. Raises the offense of child solicitation to a Class B felony if a person solicits the child to engage in sexual intercourse or deviate sexual conduct and the person: (1) has a previous conviction; or (2) travels to meet the child after using a computer network to solicit the child. As a condition of the sex offender's probation, parole, or participation in a community transition program, prohibits a sex offender from using social media to contact a child less than 16 years of age; makes it a sex offender Internet offense, a Class A misdemeanor, if the sex offender knowingly or intentionally violates this condition; and makes the sex offender Internet offense a Class D felony if the sex offender has a prior unrelated conviction for a sex offender Internet offense. Provides a defense to a prosecution for a sex offender Internet offense if the sex offender reasonably believed that the child was at least 16 years of age. Provides that a person may be convicted of attempted child molesting if the person believed the intended victim was a child under 14 years of age at the time the person attempted to commit the offense. Expands the definition of "social networking web site" and "instant messaging or chat room program". Provides that a person performs a "substantial step" for purposes of an attempt crime if the person, with intent to commit a sex crime against a child, communicates with the child concerning the sex crime and travels to another location to meet the child. Specifies that a person at least 18 years of age can commit the offense of inappropriate communication with a child. (Under current law, the offense can be committed only by a person at least 21 years of age.) Raises inappropriate communication with a child to a Class D felony if the person has a prior unrelated conviction for a sex offense. Urges the legislative council to assign to the criminal law and sentencing policy study committee or another existing study committee the topic of the collection of crime and delinquency data.

Digest of Senate House Bill 1225—Electronic Cigarettes & Minors

Sale of electronic cigarettes to minors. Prohibits the sale of electronic cigarettes to individuals less than 18 years of age. Makes it a Class C infraction for an individual less than 18 years of age to purchase, accept for personal use, or possess an electronic cigarette. Regulates display and use of electronic cigarettes in vending machines. Makes other changes concerning the use of electronic cigarettes.

Digest of Senate Bill 142---Statutes of Limitations for Child Sex Abuse

Statutes of limitations involving child sex abuse. Increases the statute of limitations for a civil action based on child sexual abuse to the later of: (1) seven years after the cause of action accrues; or (2) four years after the person ceases to be a dependent of the person alleged to have performed the sexual abuse. Increases the statute of limitations for the criminal prosecution of certain sex offenses involving children from five years to the later of: (1) 10 years after the commission of the offense; or (2) four years after the person ceases to be a dependent of the person alleged to have committed the offense.

Digest of Senate Bill 164

Child in need of services petitions. Allows a prosecuting attorney to request a juvenile court to authorize the filing of a petition alleging that a child is a child in need of services, and requires a prosecuting attorney to represent the interests of the state in the child in need of services proceeding, unless the prosecuting attorney and the department of child services agree that the department shall represent the interests of the state in that proceeding. Provides that if a prosecuting attorney is representing the interests of the state at a subsequent proceeding after a CHINS petition is filed, all deadlines and procedures concerning CHINS apply to the prosecuting attorney to the same extent as they apply to the department. (The introduced version of this bill was prepared by the department of child services interim study committee.)

Digest of Senate Bill 125

Child fatality reviews and commission on children. Establishes the commission on improving the status of children (the commission) in Indiana to: (1) study issues concerning vulnerable youth; (2) review legislation; (3) cooperate with other entities; and (4) take other actions relating to children. Establishes a child services oversight committee to: (1) review data reports from the department of child services (DCS); (2) review annual reports from the DCS ombudsman; (3) make recommendations to the commission to improve the delivery of child protection services; and (4) submit an annual report to the commission. Repeals the law establishing the department of child services interim study committee. Establishes a local child fatality review team in each county. Requires a local child fatality review team to submit an annual report to the state child fatality review coordinator. Requires a local child fatality review team to review the death of a child in certain circumstances. Establishes the statewide child fatality review committee and requires the committee to: (1) compile and analyze data recorded by local child fatality review teams; (2) review child mortality records; (3) assist local child fatality review teams; (4) assist in or conduct a review of the death of a child in certain circumstances; and (5) create strategies and make recommendations for the safety of children and prevention of serious injuries or deaths of children. Requires the state department of health to employ a state child fatality review coordinator. (The introduced version of this bill was prepared by the department of child services interim study committee.)

DIGEST OF SB 1 –School Resource Officer

School resource officers and school safety. Specifies how a school resource officer program may be established and sets forth duties and responsibilities for school resource officers. Provides that a person, before being appointed as a school resource officer, must successfully complete the training requirements for law enforcement officers and receive 40 hours of certified school resource officer training. Establishes the Indiana secured school fund (fund) under the administration of the department of homeland security to provide matching grants to enable school corporations and

charter schools to establish programs to: (1) employ school resource officers; (2) conduct threat assessments of school buildings; or (3) purchase safety equipment and technology. Creates the secured school safety board to approve or disapprove applications for matching grants from the fund and to develop best practices for school resource officers. Provides that a matching grant from the fund may not exceed the following: (1) \$50,000 per year, in the case of a school corporation or charter school that has an ADM of at least 1,000 and is not applying jointly. (2) \$35,000 per year, in the case of a school corporation or charter school that has an ADM of less than 1,000 and is not applying jointly. (3) \$50,000 per year, in the case of a coalition of schools applying jointly. Eliminates the authority to use money in the safe schools fund for certain purposes. Provides that in order to receive a matching grant, a school corporation or charter school must be located in a county that has a county school safety commission. Provides that a school safety plan is available, upon request, to a member of the secured school safety board. Requires a county school safety commission to receive school safety plans. Requires a law enforcement agency to notify a school if a student is apprehended because a law enforcement officer had reasonable grounds to believe the student has a mental illness, is dangerous, and is in need of hospitalization and treatment. Requires a law enforcement agency to include training to law enforcement officers pertaining to school notification requirements. Provides that for purposes of resisting law enforcement and disarming a law enforcement officer, a law enforcement officer includes a school resource officer, in certain situations, and a school corporation police officer. Provides that the state shall indemnify a public school against a loss resulting from any injury to a person caused by a school resource officer if the loss was the result of misfeasance, malfeasance, or nonfeasance in connection with the use of the officer's weapon. Provides that the statute regarding possession of a firearm on school property does not apply to a person who may legally possess a firearm and who has been authorized by a school board or body that administers a charter school to carry a firearm in or on school property. Establishes the school safety interim study committee, which shall: (1) study how to improve the safety of schools in Indiana; (2) develop best practices for a school resource officer to employ in order to successfully carry out the officer's responsibilities; and (3) study additional topics that the legislative council assigns.

Digest of Senate Bill 223---Child Exploitation & Child Pornography

Child exploitation and child pornography. Provides that child exploitation, a Class C felony, includes managing, producing, filming, disseminating, exhibiting, or otherwise making available material depicting: (1) the genitals of a child less than 18 years of age; or (2) the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than 18 years of age; if the filming, dissemination, exhibition, or making material available was performed with the intent to satisfy or arouse the sexual desires of any person. Makes it possession of child pornography, a Class D felony, for a person to knowingly or intentionally possess certain pictures or images that: (1) depict or describe the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child the person knows is less than 16 years of age or who appears to be less than 16 years of age; and (2) lack serious literary, artistic, political, or scientific value. Provides for certain defenses.

Digest of House Bill 1044—Public Safety Training & Alzheimers/Dementia & Missing Persons

Public safety training on Alzheimer's and dementia. Specifies that the law enforcement academy must provide training regarding persons with Alzheimer's disease or related senile dementia. Specifies that the law enforcement academy must provide in service training concerning interacting with Alzheimer's disease or related senile dementia and high risk missing persons.

Digest of House Bill 1130—Mental Illness

Immediate detention. Provides that an individual who is gravely disabled, in addition to having a mental illness and being in immediate need of hospitalization, may be detained by a law enforcement officer and transported to the nearest appropriate facility. (This makes the immediate detention statute consistent with the emergency and temporary commitment statutes.) (The introduced version of this bill was prepared by the commission on mental health and addiction.)

Digest of Senate Bill 509—Human Trafficking

Human trafficking. Makes it promotion of human trafficking of a minor to knowingly or intentionally recruit, harbor, or transport a child less than 18 years of age with the intent of: (1) engaging the child in forced labor or involuntary servitude; or (2) inducing or causing the child to engage in prostitution or an unlawful performance that includes sexual conduct. (Current law applies only to a child less than 16 years of age and does not apply to an unlawful performance.) Makes it sexual trafficking of a minor to knowingly or intentionally sell or transfer custody of a child less than 18 years of age for sexual purposes. (Current law applies only to a child less than 16 years of age).

Digest of House Bill 1093-Killing Law Enforcement Animals

Killing a law enforcement animal. Requires a court to order a person convicted of the offense of: (1) striking, tormenting, injuring, or otherwise mistreating a law enforcement animal; or (2) interfering with the actions of a law enforcement animal while the animal is engaged in assisting a law enforcement officer; to make restitution to the person or law enforcement agency that owns the animal for reimbursement of replacement costs of the animal if the animal is permanently disabled or killed. Permits a law enforcement agency to apply to the violent crime victim's compensation unit to obtain reimbursement for expenses incurred in connection with a law enforcement animal that is killed or permanently disabled. Urges the legislative council to assign to an interim study committee the topic of the appropriate penalty for a person who harms a law enforcement animal.

Digest of Senate Bill 168—Chemical Tests for Intoxication

Chemical tests for intoxication. Provides that a bodily substance sample may be obtained by any person qualified through training, experience, or education to obtain a bodily substance sample. Provides that a law enforcement officer may not obtain a blood sample if the blood sample is to be obtained from another law enforcement officer as a result of the other law enforcement officer's

involvement in an accident or alleged crime. Permits a law enforcement officer who is otherwise qualified to obtain a bodily substance sample under this section to obtain a bodily substance sample from a person who is not a law enforcement officer only if: (1) before January 1, 2013, the officer obtained a bodily substance sample from an individual as part of the officer's official duties as a law enforcement officer; and (2) the person consents to the officer obtaining a bodily substance sample, or taking the bodily substance sample from the individual is authorized by a search warrant.

Digest of Senate Bill 361-Intimidation

Intimidation. Provides that for the crime of intimidation, "communicates" includes posting a message electronically, including on a social networking web site. Provides that it is a Class D felony if the person to whom the threat is communicated is: (1) an employee of a hospital, school, church, or religious organization; or (2) is a person that owns a building or structure that is open to the public or is an employee of the person. Specifies that communicating a threat with the intent to interfere with the occupancy of certain buildings may constitute intimidation. Increases the penalty to a Class C felony if it is committed against a judge, bailiff, prosecuting attorney, or deputy prosecuting attorney.

Digest of House Bill 1441—Valuable Metal & Scrap Vehicles

Valuable metal and scrap vehicles. Provides that before a person sells, gives away, or disposes of a vehicle for scrap metal the person shall give the automobile scrap yard: (1) a certificate of authority for the vehicle; or (2) a certificate of title for the vehicle. Provides that a person who knowingly or intentionally purchases or accepts a vehicle with intent to scrap or dismantle the vehicle without obtaining: (1) a certificate of authority for the vehicle; or (2) a certificate of title for the vehicle; commits a Class B misdemeanor. Provides: (1) for certain conditions that must be satisfied, including documentation, before a valuable metal dealer may purchase an air conditioner evaporator coil or condenser or a catalytic converter; and (2) that a valuable metal dealer may purchase a window air conditioning unit without restriction. Makes technical corrections and conforming changes.

DIGEST OF HB 1579 – Open Containers

Open container laws. Provides that, for purposes of open container laws, the exemption for a person who is in the passenger compartment of a vehicle used to transport passengers for compensation or the living quarters of a house coach or trailer does not apply to the operator of the vehicle.

Digest of Senate Bill 536—Synthetic Drugs

Synthetic drugs. Permits the attorney general to issue a civil investigative demand to obtain immediate access to records relating to the sale of synthetic drugs. Provides that the department of state revenue may revoke a retail merchant certificate if the holder commits certain violations

relating to synthetic drugs. Provides that a person may be intoxicated if the person consumes any substance resulting in impairment, with certain exceptions. Permits the board of pharmacy, on its own initiative or upon formal request from the state police department, the federal Drug Enforcement Administration, or a poison control center, to adopt an emergency rule declaring certain substances to be synthetic drugs. Permits the attorney general to bring an action to abate a nuisance created in connection with the sale of synthetic drugs. Authorizes the seizure of certain property used in connection with dealing in synthetic drugs. Defines additional substances as synthetic drugs, and makes the sale or possession of a synthetic drug lookalike substance a criminal offense. Adds dealing in synthetic drugs to the list of racketeering offenses. Makes conforming amendments.

Digest of Senate Bill 496---Ephedrine & Pseudoephedrine

Control of ephedrine and pseudoephedrine. Specifies that ephedrine or pseudoephedrine may be sold only by a pharmacy or a retailer that uses the NPLEX tracking system. Allows a retailer who: (1) does not use the NPLEX tracking system; and (2) meets certain other requirements; to sell ephedrine or pseudoephedrine in convenience packages until January 1, 2014. Provides that: (1) a pharmacy may not sell more than 61.2 grams of ephedrine or pseudoephedrine to an individual in a 365 day period; and (2) an individual may not purchase more than 61.2 grams of ephedrine or pseudoephedrine in a 365 day period. Prohibits a person convicted of certain offenses involving methamphetamine from possessing ephedrine, pseudoephedrine, or phenylpropanolamine within seven years of the person's conviction, unless dispensed under a prescription. Increases the penalty for furnishing methamphetamine precursors to another person with knowledge that the recipient will use the precursors to manufacture a controlled substance if the person furnishes more than 10 grams of certain precursors. Removes a provision requiring certain signage where ephedrine or pseudoephedrine is sold.

Digest of Senate Bill 277—Meth & Vehicles

Methamphetamine vehicle information disclosure. Requires a dealer or seller who knows or reasonably should know that methamphetamine has been manufactured in a motor vehicle within the previous two years to disclose this fact, in writing, to a buyer, prospective buyer, lessee, or prospective lessee of the motor vehicle before the sale. Permits a dealer or seller to include a decontamination report with the written disclosure. Provides that failure to disclose gives rise to a cause of action in which the buyer may seek: (1) remediation to a certain standard; or (2) reimbursement for remediation costs. Provides that, in addition, a court may award a buyer or prospective buyer liquidated damages of not more than \$10,000, and that existing tort remedies that may be available to a buyer or lessee are not eliminated or abrogated.

Digest of Senate Bill 369—Public Records & Investigative Records

Public records. Allows a public agency to withhold from public disclosure records criminal intelligence information. Allows a public agency to refuse to confirm or deny the existence of investigatory records of law enforcement agencies or criminal intelligence information, if the fact of the existence of the information would: (1) impede or compromise an ongoing law enforcement investigation or endanger an individual; or (2) reveal information that would have a reasonable likelihood of threatening public safety. Allows a public agency to refuse to confirm or deny the existence of a record the disclosure of which would expose vulnerability to terrorist attack, if the fact of the record's existence or nonexistence would reveal information that would have a reasonable likelihood of threatening public safety. Allows a person to file an action in court to appeal an agency's refusal to confirm or deny the existence of a record. Clarifies when a request for a record is deemed denied and appealable. Provides that when a public agency refuses to confirm or deny the existence of a record under certain circumstances, the name and title or position of the person responsible for the refusal shall be given to the person making the records request.

Digest of Senate Bill 243-Public Records

Public records. Allows a public agency to withhold from public disclosure the home address, home telephone number, and emergency contact information for any emergency management worker, public safety officer, emergency medical responder, or advanced emergency medical technician.

Digest of Senate Bill 538—Motor Vehicle Issues

Various motor vehicle issues. Makes various changes to motor vehicles laws concerning credentials, convictions, restrictions, and suspensions. Amends related definitions. Amends certain requirements for various drivers' licenses. Amends provisions concerning examinations and investigations for licenses. Specifies minimum terms of suspension of driving privileges for various offenses. Provides that a nonresident must be at least 16 years and 180 days of age to operate a motor vehicle on a highway. Changes the membership of the motorcycle operator safety education program advisory committee. Makes technical corrections and corresponding changes.

Digest of Senate Bill 563—Motor Vehicle Issues

Various motor vehicle issues. Amends various provisions concerning certificates of title and registrations for motor vehicles and watercraft. Relocates chapter concerning special identification numbers. Amends various provisions concerning license plates. Exempts recipients of Purple Heart license plates from parking fees and fines. Amends various provisions relating to abandoned vehicles and mobile homes. Provides that a motor vehicle that is at least 25 years old is not required to have a catalytic converter installed as equipment on the motor vehicle unless a catalytic converter on the motor vehicle is required by certain rules relating to air quality. Makes conforming amendments and technical corrections.

Digest of Senate Bill 352---Gang Activities & School Policies

School policies on gang activities. Allows the Indiana safe schools fund to be used to provide educational outreach and training to school personnel concerning the identification and prevention of, and intervention in, criminal gang activity. Requires the Indiana department of education (department) to develop model educational materials and a model policy concerning criminal gang activity. Requires the department, in collaboration with certain other agencies and organizations with expertise in criminal gang education, prevention, and intervention, to identify or develop model education materials and develop a model policy to address criminal gangs and criminal gang activity in schools. Requires the governing body of each school corporation to develop and maintain a criminal gang policy. Requires each school corporation to develop: (1) an educational criminal gang awareness program for students, school employees, and parents; and (2) a school employee development program to provide training to school employees in the implementation of the school corporation's criminal gang policy. Requires, beginning in 2017 and each year thereafter, each school corporation to submit a report to the department outlining the activities undertaken by the school corporation to address criminal gang activity. Requires, beginning in 2017 and each year thereafter, the department to submit a report to the governor and the general assembly regarding criminal gang activities in schools. Requires a school employee to report any incidence of suspected criminal gang activity, criminal gang intimidation, or criminal gang recruitment to the principal and the school safety specialist. Requires the state police department to conduct an assessment to map gang activity and identify existing services and programs and to report the results to the department by July 1, 2014. Makes a technical correction.

Digest of Senate Bill 246—Controlled Substances

Controlled substances. Defines "owner" for purposes of requiring an owner that employs or contracts with individuals to dispense controlled substances to, beginning January 1, 2014, maintain a controlled substance registration. Beginning January 1, 2014, allows the attorney general to petition the court to obtain an injunction against an owner that violates the controlled substance registration and control laws. Requires the medical licensing board to adopt emergency rules and permanent rules within a specified period concerning: (1) standards and procedures for the attorney general to follow in accessing physicians' records and inventory; and (2) standards and protocol for the prescribing of controlled substances. During the 2013 legislative interim, requires the health finance commission to study: (1) issues concerning pharmacy programs designed to take back and dispose of old and expired prescription drugs; and (2) the use of methadone and opioids in treatment programs and clinic settings. Requires the division on mental health and addiction to provide the health finance commission specified information concerning opioid treatment in Indiana. During the 2013 legislative interim, requires the commission on

mental health and addiction to study issues concerning treatment and recovery from prescription drug use addiction. Resolves a conflict and corrects a cross reference.

Digest of Senate Bill 24—County Extradition Fund

County extradition and sheriff's assistance fund. Replaces the county extradition fund of a county with the county extradition and sheriff's assistance fund. Provides that, in addition to providing funding to offset the costs of extraditing criminal defendants, a county extradition and sheriff's assistance fund may also be used to provide funding to: (1) train and equip law enforcement officers in the county; and (2) offset other costs incurred by the county sheriff's department in providing law enforcement services. Transfers any money in a county extradition fund on June 30, 2013, to the county extradition and sheriff's assistance fund on July 1, 2013.

Digest of Senate Bill 31—Habitual Offender Charge Filing

Habitual offender charge filing deadline. Allows an indictment or information to be amended to include a habitual offender charge if the amendment is filed at least 30 days before trial. Permits such an amendment to be made at any time if it does not prejudice the substantial rights of the defendant. Provides that if an amendment is made less than 30 days before trial, the court shall grant a continuance to the: (1) state, for good cause shown; or (2) defendant, for any reason. (Current law provides that such an amendment of an indictment or information to include a habitual offender charge must be made: (1) not later than 10 days after the omnibus date; or (2) upon a showing of good cause, at any time before the trial.)

Digest of House Bill 1393--JTAC

Judicial technology and automation. Establishes the judicial technology oversight committee (committee) to: (1) conduct a continuous study of information technology applications for Indiana's judicial system; (2) make recommendations to the division of state court administration (division) for the establishment of a pilot program concerning electronic filing; (3) allow public court records to be available on the Internet; (4) study the appropriate use of private sector vendors; and (5) make recommendations to the supreme court concerning the implementation of policies, standards, and rules that promote the effective use of technology and automation in Indiana courts. Provides that the committee consists of: (1) the chief justice of the supreme court; (2) the chief information officer of the office of technology; (3) two members of the senate; (4) two members of the house of representatives; (5) one trial court judge; (6) two circuit court clerks, with one clerk for a county that does not operate under the state's automated judicial system and one clerk for a county that operates under the state's automated judicial system; (7) one attorney admitted to the practice of law in Indiana; and (8) an individual affiliated with a taxpayer organization. Requires the division to develop and implement a standard protocol for sending and receiving certain court data by December 31, 2013, and requires the standard protocol to permit vendors to access the system on an equitable basis. Allows the budget committee to release funds for the judicial technology and automation project after the division certifies in conjunction with the Indiana office of technology that the judicial technology automation project is in compliance with certain information sharing and exchange requirements. Provides that the automated

record keeping fee increases for two years from \$5 to \$7 for all civil, criminal, infraction, and ordinance violation actions except actions resulting in the accused person entering into a: (1) pretrial diversion program agreement; or (2) deferral program agreement. Allocates the \$2 fee increase as follows: (1) \$2 to the state, if the county is operating under the state's automated judicial system; or (2) \$1 to the state and \$1 to the county if the county is not operating under the state's automated judicial system. Provides that the automated record keeping fee is \$5 for all civil, criminal, infraction, and ordinance violation actions resulting in the accused person entering into a: (1) pretrial diversion program agreement; or (2) deferral program agreement.

Digest of House Bill 1392—Criminal History Provider

Restricting criminal background checks. Specifies that the clerk of a court is not a "criminal history provider". Permits a criminal history provider to provide certain information relating to an incident that did not result in a conviction. Provides that a criminal history provider may provide information concerning expunged, restricted, or reduced convictions to a person required by law to obtain this information. Specifies that a criminal history provider does not violate the requirement to provide current information if the public records used to obtain the information is not current. Provides that a violation of these requirements is a deceptive act. Repeals a provision requiring a clerk to restrict disclosure of an infraction five years after it has been satisfied and permits a person to petition a court to restrict disclosure of an infraction five years after it has been satisfied. (The introduced version of this bill was prepared by the criminal law and sentencing policy study committee.)

Digest of House Bill 1256—Unlawful possession at Prisons

Unlawful possession of items in penal facilities. Requires a court to impose a fine of at least \$500 but not more than \$5,000 on a person who is: (1) an employee of the department of correction or a penal facility; and (2) convicted of committing trafficking with an inmate as a Class A misdemeanor; if the article involved was a cigarette or tobacco product. Requires a court to impose a fine of at least \$500 but not more than \$10,000 on a person who is convicted of committing trafficking with an inmate involving a cellular telephone or other wireless or cellular communications device as a Class C felony. Makes it a Class D felony for a person who is not: (1) an inmate of a penal facility; or (2) a child of a juvenile facility; to knowingly or intentionally possess in, or carry or cause to be brought into, the penal facility or juvenile facility a deadly weapon without the prior authorization of the person in charge of the penal facility or juvenile facility. Makes it a Class A misdemeanor for a person to knowingly or intentionally possess a cellular telephone or other wireless or cellular communications device while incarcerated in any penal facility.

Digest of House Bill 1376—Criminal Provisions & Telecommunications

Various privacy issues. Makes the following changes to the statute concerning telephone caller identification services: (1) Repeals the definition of "telecommunications service provider". (2) Adds the definition of "provider". In the statutes concerning: (1) telephone caller identification services; and

(2) telephone solicitations; replaces the term "caller ID" with the term "caller identification", as used in the federal Caller ID Act of 2009. Provides that a person shall not knowingly and with the intent to defraud or cause harm to another person, or to wrongfully obtain anything of value, cause any caller identification service to transmit misleading or inaccurate caller identification information to a subscriber in Indiana. Exempts certain activities from the prohibition. Provides that a violation of the prohibition is: (1) a Class B misdemeanor; and (2) a deceptive act actionable by the attorney general. Specifies that the attorney general may recover a civil penalty of not more than \$10,000 for a knowing violation. Provides that a subsequent violation is a Class A misdemeanor. Provides a cause of action for: (1) damages; and (2) injunctive relief; for any person aggrieved by a violation. Prohibits the professional licensing agency (PLA) or a board administered by the PLA from disclosing to the public personal information of an individual who: (1) applies for or holds a license, certificate, registration, or permit issued by a board; or (2) is a member of a board administered by the PLA; subject to certain exceptions specified by law. Makes conforming amendments.

Digest of House Bill 1494—Criminal History Background Checks

National criminal history background checks for child care. Requires: (1) employees and volunteers of certain child care providers; and (2) for applicants applying for a license to operate a child care home, the applicant's spouse and certain household members of the applicant; to undergo national criminal history background checks. Provides that a child care provider that holds a license or registration on July 1, 2013 has until July 1, 2014 to meet the requirements regarding national criminal history background checks. Requires the state police department to release the result of a national criminal history background check to the division of family resources. Amends the list of felony convictions and certain other offenses related to the: (1) application, denial, and revocation of a child care license or registration; and (2) eligibility for child care voucher payments. (The introduced version of this bill was prepared by the committee on child care.) National criminal history background checks for child care. Requires: (1) employees and volunteers of certain child care providers; and (2) for applicants applying for a license to operate a child care home, the applicant's spouse and certain household members of the applicant; to undergo national criminal history background checks. Provides that a child care provider that holds a license or registration on July 1, 2013 has until July 1, 2014 to meet the requirements regarding national criminal history background checks. Requires the state police department to release the result of a national criminal history background check to the division of family resources. Amends the list of felony convictions and certain other offenses related to the: (1) application, denial, and revocation of a child care license or registration; and (2) eligibility for child care voucher payments. (The introduced version of this bill was prepared by the committee on child care.)

Digest of House Bill 1458-Toxicology Department Fees

Department of toxicology fees. Permits the department of toxicology (department) to continue to collect fees in the amount that was being charged as of January 1, 2013. Requires the department to publish the January 1, 2013, fee schedule. Allows the department to adopt a rule to change the amount of a fee. Requires the department to notify each agency that has paid a fee to the department in the previous 12 months, and any other person that makes a request to be on the notification list, of the proposed new fee amount. Requires the notice to change the amount of the fee to be published.

Legalizes and validates the fees that have been charged by the department since July 1, 2011. Establishes the breath test training and certification fund for deposit of the fees. Provides that the fund may be used by the department to pay for operating the department, replacing equipment, and conducting research.

Digest of House Bill 1135--Midwives

Midwives. Requires the local health officer to make a permanent record of the person in attendance at a birth and the location of the birth. Includes complications resulting from a home delivery in the definition of "birth problems" for purposes of the birth problems registry. Requires the state department of health to adopt rules to establish reporting requirements regarding birth problems for home deliveries. Establishes the midwifery committee to provide information and recommendations to the medical licensing board (board) concerning the practice of midwifery by a certified direct entry midwife (CDEM). Provides requirements that an applicant must meet before the board may issue a certificate for a CDEM. Provides for the issuance of certificates beginning January 1, 2014, and sets qualifications. Requires the board to: (1) establish continuing education requirements; (2) develop peer review procedures; and (3) adopt certain rules concerning the competent practice of a CDEM. Requires a physician to examine a client of a CDEM at least one time during the client's first trimester and one time during the client's third trimester. Requires a CDEM to collaborate with a physician. Allows a CDEM to administer certain prescription drugs only under a physician's protocol or order. Establishes a Class D felony for practicing midwifery without a certificate. Adds culpability standards to the crimes of practicing medicine or osteopathic medicine and acting as a physician assistant without a license. Requires certain information to be reported to the health finance commission. Makes technical and conforming changes.

Digest of House Bill 1176-Horse Racing

Prohibited horse racing and gaming wagers. Prohibits members of the Indiana horse racing commission (IHRC), employees of the IHRC, and racing officials from wagering on horse racing at the racetracks and satellite facilities located in Indiana. Provides that the prohibition also applies to the spouse of any individual prohibited from wagering. Provides that a person who wagers on horse racing in violation of the statute commits a Class A misdemeanor. Prohibits members of the Indiana gaming commission (IGC) and employees of the IGC, from wagering on gambling games at the riverboats and racinos located in Indiana. Provides that the prohibition also applies to the spouse of any individual prohibited from wagering. Provides that a person who wagers on gambling games in violation of either statute commits a Class A misdemeanor. Adds gaming agents to the definition of "law enforcement officer" for purposes of the criminal code.

Digest of House Bill 1001—State Budget Bill

Biennial budget. Appropriates money for capital expenditures, the operation of the state, the delivery of Medicaid and other services, and various other distributions and purposes. Abolishes the health finance advisory committee, the health policy advisory committee, and the select joint commission on Medicaid oversight, and transfers their duties to the health finance commission. Restores citation numbering in Article V convention law as adopted by the senate in SB 224. Requires the county chairman of a major political party to provide the name and address of the precinct committeemen and vice committeemen to an elected official, upon request of the elected official. Provides that the office of management and budget may not consider a balance in the state tuition reserve fund when calculating the amount of state reserves at the end of a state fiscal year for purposes of the automatic taxpayer refund. Provides that the racino slot machine wagering tax is imposed on 91.5% of adjusted gross receipts. Specifies that such adjusted gross receipts include the 15% distribution from racinos. Caps supplemental distributions of wagering tax revenues at \$48,000,000 statewide. Provides that the exception to the circuit-breaker credit for bonds and lease issued or entered into before July 1, 2008, in St. Joseph County or Lake County also applies to certain bonds or leases issued or entered into to refund those preexisting obligations. Reduces the adjusted gross income tax rate on noncorporate taxpayers to: (1) 3.3% for taxable years beginning after 2014 and before 2017; and (2) to 3.23% for taxable years beginning after 2016. Increases the annual cap on school scholarship tax credits to \$7,500,000. Permits a county income tax council to impose a motor vehicle excise surtax and a wheel tax for a county. (Current law permits the county council to impose these taxes.) Specifies that the body that initially imposes the excise surtax and wheel tax is the body that is empowered to increase, decrease, or rescind the excise surtax and wheel tax. Provides that the inheritance tax expires on January 1, 2013, rather than on January 1, 2022. Specifies that a county is not entitled to an inheritance tax replacement amount for a state fiscal year beginning after June 30, 2013. Repeals the Indiana estate tax and Indiana generation skipping transfer tax. Reallocates certain cigarette tax revenues. Updates references to the Internal Revenue Code . Changes financial institution tax distributions to local governments. Provides that any increase after January 1, 2013, and before March 1, 2013, in the Marion County supplemental auto rental excise tax rate or the Marion County admissions tax rate may not continue in effect after February 28, 2023. Increases the total amount of school scholarship tax credits that may be awarded in a state fiscal year. Allocates 1% of state gross retail tax collections to the motor vehicle highway account. Removes state police expenses from motor vehicle highway account distributions. Establishes the major moves 2020 trust fund. Specifies that money is to be used exclusively for major highway expansion projects that enhance the ability to transport goods in and through Indiana, upon appropriation by the general assembly. Provides that the fund is considered a trust fund, and that money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency. Provides that, on July 1, 2013, and on July 1, 2014, the auditor of state shall transfer \$200,000,000 to the fund from the state general fund. Provides that the Indiana finance authority may enter into public-private agreements for freeway projects in addition to toll road projects. Defines a

freeway project as a nontolled highway project subject to a public-private agreement. Specifies that additional statutory authority is not necessary to issue a request for proposals or to enter into a public-private agreement for a freeway project. Provides that freeway projects are not subject to a preliminary feasibility and economic impact study required by current law before entering into a public-private agreement for a toll road project. Provides that lodging facilities constructed on or adjacent to a freeway project are not part of the freeway project. Specifies that the general law concerning public-private partnerships may not be construed to affect a project carried out under the law governing public-private agreements for toll road projects and freeway projects. Provides that if the department of correction or a county incurs medical care expenses in providing medical care to an inmate and the medical care expenses are not reimbursed, the department or the county shall attempt to determine the amount, if any, of the medical care expenses that may be paid: (1) by a policy of insurance that is maintained by the inmate and that covers medical care, dental care, eye care, or any other health care related service; or (2) by Medicaid. Removes expiration date for the Medicare plus 4% provision concerning certain medical costs incurred by the department of correction or a county. Authorizes a hospital assessment fee through June 30, 2017. Extends the health facility quality assessment fee through June 30, 2017. Provides that FSSA may not implement a waiver or Medicaid state plan amendment without having it reviewed by the budget committee. Doubles the amounts that FSSA must pay to funeral directors and cemeteries for the burial expenses of TANF and Medicaid recipients. Specifies distribution of disproportionate share payments for specified fiscal years to specified hospitals and psychiatric institutions. Authorizes transfers from the state tuition reserve to the state general fund if the budget director, after review by the budget committee, makes a determination that the amount of the distribution for that state fiscal year for basic tuition support has been reduced because the amount of the distributions for the state fiscal year for choice scholarships has exceeded the estimated amount of the distributions for choice scholarships. Provides that such a transfer may not exceed \$25,000,000 per state fiscal year. Specifies that the amounts transferred shall be used to augment the appropriation for state tuition support and shall be distributed to school corporations to restore the distributions for basic tuition support that have been reduced. Provides that if the state board of education determines that the Indianapolis public school corporation or any other school corporation is entitled to a distribution to correct the amount that was withheld during July through December 2012 from state tuition support and federal funds otherwise to be distributed to the school corporation under the turnaround academy statute, the state board receives an appropriation of \$7,405,892 to make corrected distributions. Requires the recipient school corporation to dismiss and not pursue any claims against the state, the special management team, or the turnaround academy with regard to distributions. Establishes the science, technology, engineering, and mathematics teacher recruitment fund. Establishes the high need fields and minority student teacher stipend programs. Repeals the nursing scholarship and scholarships for special education, occupational therapy, and physical therapy students. Creates a scholarship program for medical students. Requires the Department of Child Services (DCS) to investigate all reports of child abuse or neglect received from a judge or prosecutor. Requires DCS to forward all reports of child abuse or neglect received from medical personnel, school personnel, a social worker, law enforcement officials or personnel, judiciary personnel, or prosecutor personnel to the appropriate local office. Requires the auditor of state to transfer \$150,000,000 to the tuition reserve fund on July 1, 2013, and on July 1, 2014. Authorizes a state educational institution to develop and finance a hospitality

facility through a financing and operating agreement with a developer. Specifies that the hospitality facility must be generally available to students, faculty, staff, or visitors without discrimination and at reasonable charges. Provides for funding of the securities division. Requires political subdivisions to annually report certain information concerning other post employment benefits (OPEB) to the department of local government finance. Requires studies of various topics. Appropriates money to defease bonds on the state museum and forensics and health sciences lab. Repeals obsolete study committees. Provides that on July 1, 2013, the auditor of state shall transfer \$10,000,000 from the mine subsidence insurance fund to the state general fund. Repeals the 2009 appropriation for carrying out architectural and engineering work for a trauma care center in the city of Gary. Repeals certain previously authorized higher education bonding authority.

Digest of House Bill 1016-Problem Solving Courts

Problem solving courts. Provides additional circumstances under which a person can participate in a problem solving court program. Provides that a problem solving court may provide rehabilitative services. Simplifies the problem solving court fee transfer process. Urges the legislative council to require the Commission on Courts to evaluate the funding of veteran's courts during the 2013 interim.

Digest of House Bill 1061—Magistrates in Marion and Warrick Counties

Magistrates. Allows the judges of the Marion superior court to appoint 12 full-time magistrates after December 31, 2013. Allows the judges of the Warrick circuit and superior courts to jointly appoint a magistrate.

Digest of House Bill 1057—Prosecutors' Pension

Prosecuting attorneys retirement fund. Changes various provisions of the law concerning the prosecuting attorneys retirement fund (fund) to incorporate several features that are the same as or similar to features found in the 1985 judges' retirement system, including changing the manner in which a participant's eligibility for permanent disability benefits is determined, the pension benefit for disabled members, and allowing a participant to designate the participant's children to receive the participant's survivor benefit. Changes eligibility for retirement benefits in the fund for a participant in the fund serving prior to and after July 1, 2006. (The introduced version of this bill was prepared by the pension management oversight commission.)