



The Indiana Prosecutor

2nd Quarter, 2015

As you know the Legislative Session ended at midnight Wednesday, April 29. We had a couple important bills that did not pass until the last hour. Overall, session turned out pretty well. Candidly, it was better than I expected. You never get everything you want but your IPAC team, with outstanding support from your Standing Committee on Legislation, stayed in the game until the very end. Perhaps more important than the legislation that passed were our efforts to head off or prevent passage of problem or misguided legislation. The good news is that we do not have to talk about those bills because they are dead. Friday, May 15 at the annual Spring Seminar we will highlight legislation that did pass. There is some good stuff to talk about.

Earlier this year your board of directors authorized IPAC to submit a grant to the Indiana Criminal Justice Institute to fund an "Elder Abuse Forensic Team" (EAFT). We submitted the grant request and should know before July 1st whether funding is approved. Elder abuse is the most under-reported crime in America. This is true for a lot of reasons. The primary reason being the cases are difficult from the outset and require specialized knowledge and training that is often not available to local law enforcement and prosecutors. We have been studying this concept for some time and looking at other states. We found an excellent model to evaluate in the state of Pennsylvania. The EAFT will serve as a resource to prosecutors to enhance their capability to investigate and prosecute elder abuse. The grant, if approved, will fund 3 positions: elder abuse resource prosecutor, forensic accountant and an investiga-

Some Thoughts..

By
David N. Powell
IPAC Executive Director



tor. We are excited about the support and work the EAFT will provide to you. Hopefully, we will be able to announce creation of the EAFT at June's Summer Conference.

Finally, I would like to put in a plug for the 2015 Summer Conference scheduled for Lake County. We have a great agenda and social calendar. It will be a family friendly event so bring the kids. I know we will provide child care (ages 12 and under) Wednesday night for those who need it and want to attend the Dillinger Museum event. We have arranged for a private venue for those attending the White Sox game. Food and beverages will be provided at the game. The IPAC shirt was designed so that everyone could wear them to the Sox Game and look like a Sox fan.

Prosecutor Association Legislative Committee

The Courtroom and the Statehouse: Adversarial vs. Advocacy

By **Dustin Houchin**

The Statehouse is not like the courthouse. Over the last few years, I have had a unique opportunity to compare the two. As a prosecutor in a small, rural county I spend a lot of my time in the courtroom. Since 2013, I have also been involved with IPAC and the Association's Legislative Committee. The Legislative Committee, IPAC staff and many prosecutors from around the state have been active in legislation over this time, particularly given the recent criminal code rewrite. It has been a great privilege to play a small role in the effort.

Since this January, I have also enjoyed going to the Statehouse for another reason. My wife, Erin, is in her first year as a newly elected State Senator. This has given me some first-hand perspective and insight not available to most, and has made me think about what we do in the courthouse compared to the role we may play at the Statehouse.

To illustrate, in our legislative efforts we commonly testify in committee hearings. These hearings sometimes have a courtroom feel where witnesses are called, testimony is given, and questions are posed in search of the

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Dustin Houchin

Legislative Update

By **Sabra Northam**
IPAC Legislative Liaison

2015 Legislative Session in Review

The 2015 Legislative Session wrapped up just seconds before midnight on April 29, the statutory deadline for the General Assembly to finish their business for the year. A total of 589 bills were filed in the Senate and 669 bills were filed in the House of Representatives in the early weeks of January. So far, 116 bills filed in the Senate and 133 bills filed in the House have become law. Approximately 80% of bills filed this session died in the process.

The top category of bills filed this legislative session dealt with school issues, which made up 26% of bills filed. Coming in second was the topic of crimes and offenses, which consisted of 18% of all bills filed. Other top categories include motor vehicles, health, education, and property taxes. Some of the more controversial bills dealt with the following issues: governance of the State Board of Education, the Religious Freedom Restoration Act, needle exchange programs, gaming, Sunday alcohol sales, the state biennial budget, and criminal justice funding.

As for criminal law bills, there was a general sense from legislators of allowing previous changes to the criminal code (HEA 1006 from the last few years) to settle before increasing penalties. However, due to increased crime and violence particularly in the capital city and some other occurrences around the state, a few enhancements and some important fixes related to sentencing were ultimately passed.

Some of the more significant topics related to criminal law

and public safety include: criminal justice funding and funding for mental health and substance abuse treatment; the statute of limitations for rape; adding serious violent felon possessing a firearm to the list of crimes of violence; a habitual offender fix; establishment of new caps for consecutive sentences resulting from a single episode of criminal conduct; an enhancement for pointing a firearm at a police officer; death penalty aggravators; confidential victim services requests; human trafficking; and more. A detailed review of these and other bills will be shared at Spring Conference on Friday, May 15.

As we finish the review and analysis of this past legislative session, we begin planning for the 2016 session, summer study committees, and regional dinners with prosecutors and legislators. The legislative committee and IPAC staff will begin working on our priority legislative agenda in the next couple of months. If you have a suggestion for a legislative topic for next year, please send them to me at snortham@ipac.in.gov.

DEA agent praises Delaware County Prosecutor's Office

Delaware County Prosecutor Jeff Arnold shared a letter commending his office and more particularly the "outstanding contributions" of one of his deputy prosecutors. Chicago Drug Enforcement Administration Special Agent in Charge Dennis A. Wichern praised Deputy Prosecutor Zachary Craig for "skills and leadership" in an investigation that targeted a medical practitioner operating in Delaware County.

"The success of this operation was in no small part due to Deputy Prosecutor Craig's perseverance, professionalism and Indiana law knowledge. On behalf of the DEA, I want to commend Deputy Prosecutor Craig's and your office for your outstanding diligence and commitment to duty," wrote Wichern. "Agencies like yours are a pleasure to team with due to your dedication in making our communities and nation safer. Thank you again for your teamwork, partnership and friendship."

Indiana Prosecuting Attorneys Council

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Calendar of Events

Spring Seminar
May 15
Marriott North
Indianapolis

Office Administrator Training
May 27-29
Marriott North
Indianapolis

Indiana Child Support Enforcement Conference
June 3 - 5
Marriott East
Indianapolis

Summer Conference
June 17 - 19
Radisson Hotel at Star Plaza
Merrillville



Child Support conference nets prestige and giant chocolate bars

Indiana survived the “Whammy” and claimed victory with giant chocolate bars! The occasion was an annual competition at the Eastern Regional Interstate Child Support Association ERICSA, recently held in Hershey, PA.

Indiana was represented in the closing plenary session “ERICSA Team Wars” by Ethan McKinney, St. Joseph County IV-D Director and Deputy Prosecutor; Laura Bernacki Stafford, Porter County IV-D Director and Deputy Prosecutor and Amy Burgher, Child Support Program Analyst for IPAC. A total of 9 teams from various states in attendance and the ERICSA Board of Directors competed in this fun and educational session where child support program questions worth various points were selected by the teams while trying to avoid the two “Whammy” questions that would cause the team to lose all accumulated points.

The other teams in contention for the coveted giant candy bar against Indiana were: Pennsylvania, North Carolina, New York, New Jersey, Kentucky, Ohio, Michigan and the ERICSA Board of Directors.



Indiana's ERICSA team won the chocolate while competing against teams from 9 other states. They are, from left, Laura Bernacki Stafford, Porter County; Amy Burgher of IPAC and Ethan McKinney, St. Joseph County.

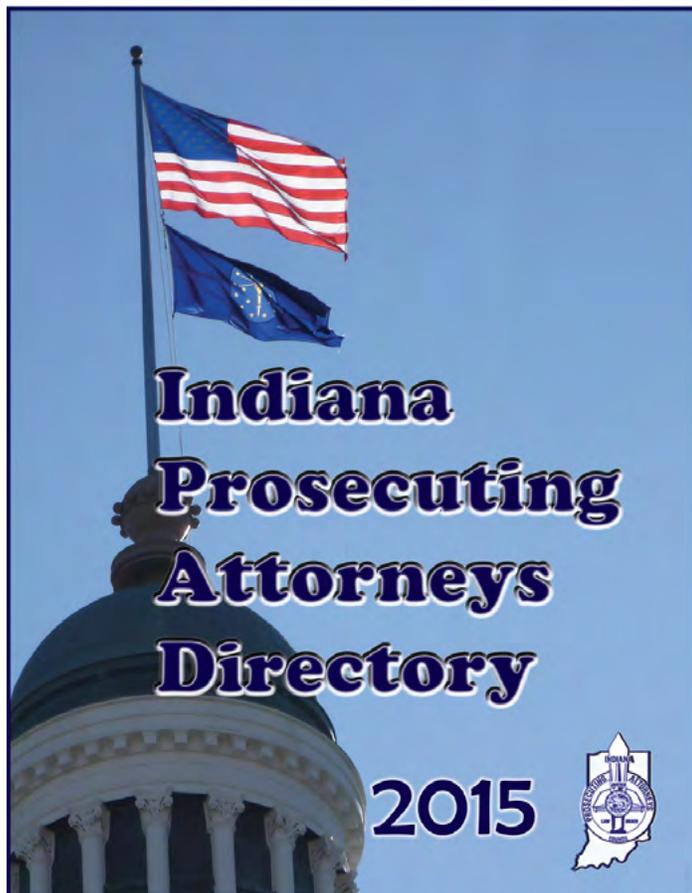
The Courtroom and the State House: Adversarial vs. Advocacy

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best outcome. However, while differences clearly exist on most issues, the process lacks the back and forth of the courtroom's examination, cross examination and rebuttal. I often find it difficult to suppress the urge to object when listening to opposing testimony. Even with opposing sides, it is not what prosecutors would recognize as adversarial.

It is clear to me that the adversarial approach we apply in the courthouse does not transfer fully to the Statehouse. Certainly, there are examples of political battles on controversial issues that mirror the passion often present in the courtroom. We waded very slightly into this territory in our efforts on criminal code reform last year, and such advocacy plays an important role and should be ever ready to engage. However, the Statehouse is more about the long game, and relationships are the key. We can be more influential over time by fostering relationships between prosecutors and their respective local legislators, and by developing IPAC staff as trusted experts. In my experience, most legislators just want to make good policy, and appreciate our knowledge more than our zeal.

While there are important differences, what happens at the Statehouse impacts our communities as much as what happens in the courthouse. I appreciate the work IPAC is doing in this area, and I encourage my fellow prosecutors from across the state to engage in the process, start building these important relationships, and help make good policy for our communities and our State.



The first Indiana Prosecuting Attorneys Directory in eight years is nearing completion and is expected to be distributed at the 2015 Summer Conference, June 17-19 in Merrillville. The 100+ page publication will include photographs and information about Indiana's 91 prosecuting attorneys and their offices. Also included is information about senior prosecutors and lists of frequent contacts, including state and federal offices prosecutors might need to contact in the course of their work.

Capital Litigation Committee offers advice, guidance on death penalty deliberations

Did you know that you can review your death penalty-eligible case with the IPAC Capital Litigation Committee? The Cap Lit Committee is made up of prosecutors, deputy prosecutors and deputy attorneys general with extensive capital litigation ex-

perience. You can bring your case to the committee and get advice on whether to pursue death and guidance in the special issues involved in prosecuting a capital case. For more information, contact Jim Oliver at jimoliver@ipac.in.gov.

Congratulations...

IPAC legal intern Christopher Moeller and a team of IUPUI students placed third in the Ideas Solving Social and Economic Challenges competition that encourages students to propose answers to real-world problems through new approaches, services or ventures.

Moeller's team proposed a consumer alternative to payday loans.

Media Quotes of Note

Nick Hermann

Vanderburgh County
14 News
February 10, 2015

"We need to stop meth labs. We need to stop children from growing up with meth. We need to stop people renting buildings and people renting apartments to people that then have meth labs explode and they are left with the cost. We need to stop people's addiction. That's the goal of the people that have favored this (Senate Bill 536) and there's a couple of states that have done this and they've seen their labs drop."

<http://www.14news.com/story/28076539/indiana-bill-aims-to-curb-meth-production>

Otto Schalk

Harrison County
WDRB
March 27, 2015

"We're not going to tolerate this... It's the good in the community that ultimately keeps our county going. As a result, when that good is ultimately taken advantage of, that requires a rapid response and it requires a stern response."

<http://www.wdrb.com/story/28622333/southern-indiana-woman-sentenced-for-faking-cancer-to-collect-money>

Terry Modesitt

Vigo County
mywabashcounty.com
March 27, 2015

"The defendant continued to try to flee, actually rocked his car back and forth... That's part of what you have to look at in these cases. Ya know, when someone has got their hand inside their coat and you're telling him to show their hands and they won't do it. I mean it's just a matter of that quick and that's how fast the decision is."

<http://www.mywabashvalley.com/story/d/story/prosecutor-releases-new-info-in-police-involved-sh/40771/FvCkHaAg-kKxIM5tD34g0w>

Aaron Negangard

Dearborn/Ohio Counties
WCPO
April 7, 2015

"I would say roughly 80 percent of what we deal with through the criminal justice system is substance abuse related... I've yet to see drug addicts really get the help they need until they're facing significant penalties in the criminal justice system."

<http://www.wcpo.com/news/state/state-indiana/indiana-communities-fighting-back-against-heroin>

Jason Mount

Scott County
WHAS 11
April 17, 2015

"Some of our state legislators believe drug crimes are victimless. I'm here to tell you that Scott County a victim of drug crime. It's not a victimless crime."

<http://www.whas11.com/story/news/crime/2015/04/17/scott-county-indiana-drug-bust/25933651/>

Karen Richards

Allen County
News-Sentinel
May 1, 2015

"We are conservative in Indiana; we don't do a lot of stupid stuff."

<http://www.news-sentinel.com/apps/pbcs.dll/article?AID=/20150501/NEWS/150429606>

Terry Curry

Marion County
Army Times
May 3, 2015

"It's our duty to apply the laws given to us by the legislature. We can't pick and choose... If that is the sentiment of the legislature, that they should take this out of the realm of criminal prosecution, then that's what they should do."

<http://www.armytimes.com/story/news/nation/2015/05/03/pregnant-woman-feticide-charge/26838389/>

IV-D Senior Prosecutor Solves Conflict of Interest Enforcement

There's a special place in Indiana's courtrooms for senior prosecutors and there's an even more special place for a senior IV-D prosecutor. Presently, only one individual knows that special feeling and that's Scott Cooke of Marion County. Since the enabling legislation went into effect in July, 2014, he's the single individual who has chosen to become a senior IV-D prosecutor.

“The need seems to be fairly significant. Over time we'll have a better gauge but as the word gets out more, more counties should consider this as an option.”

- Scott Cooke

Perhaps it's because the qualifications are particular. Child support prosecution is a specialty with its own rules and language and it's heavily federally driven so IC 33-39-10 specifies the senior IV-D prosecutor must have been employed eight years as a full time prosecuting attorney performing child support enforcement (IV-D) activities. Another stipulating factor is that the senior IV-D prosecutor may only be appointed in cases relating to child support enforcement.

“The need seems to be fairly significant,” said Cooke. “Over time we'll have a better gauge but as the word gets out more, more counties should consider this as an option.”

The position of IV-D senior prosecuting attorney is needed when the elected prosecutor has a conflict in a particular IV-D case. For example, a prosecutor may have been engaged in the private practice of law doing divorce or family law cases with child support orders prior to being elected. Neither that prosecutor nor anyone in the prosecutor's office would be allowed to become involved in that case, and so a special prosecutor would be required.

Since theoretically a IV-D case has a life equal in age to a child from infancy to emancipation, long-lasting conflicts are inevitable that prevent the prosecutor's office from handling IV-D cases.

Many times, counties with IV-D conflicts contracted with another county to prosecute those cases. Therefore, county offices would frequently have a difficult time finding a neighboring prosecutor to handle the IV-D cases, especially if there were large numbers of those cases all at once.

Senior IV-D Prosecutor Cooke has also experienced perplexed court clerks that don't know what to make of his request to file an affidavit for appointment. One county wanted to charge him a filing fee and it took a week for the clerk's office to figure out just where a IV-D senior prosecutor fit into the scheme of things. “It's too bad the legislature couldn't have ordered statewide appointments for senior IV-D prosecutors,” Cooke said.

For now, Dearborn, Washington, Harrison and Marion counties have taken advantage of Cooke's IV-D senior prosecutor services. “This program is still in its infancy,” said Cooke. “But there are lots of counties with conflicts.”

IPAC is offering a grant for the establishment of a child support IV-D Regional Hub for the southern portion of Indiana.

The hub will serve special prosecutors in child support cases to establish administrative enforcement in IV-D cases and serve as a point of contact for parties involved in a case.

Please contact IPAC for information about how to apply:

William F. Welch
Child Support Staff Attorney
302 W Washington St, Rm. E205
Indianapolis, IN 46204
Telephone: 317/232-1836
E-mail: wwelch@ipac.in.gov

Proposed IV-D Regional Hubs



Prosecutors lunch with legislators

The south atrium of the Indiana State House was the scene of a luncheon meeting of Indiana Prosecutors and legislators, February 19, sponsored by the Association of Indiana

Prosecuting Attorneys, Inc. "Events like this help to build relationships and helps the Association to further its legislative goals," said IPAC Legislative Liaison Sabra Northam.



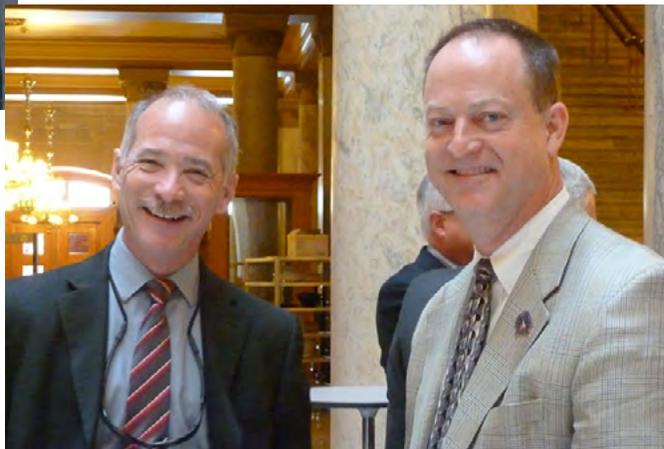
At left, Decatur County Prosecutor Nathan Harter chats with Sen. Erin Houchin. Below left, LaPorte County Prosecutor John Espar (left) and Porter County Prosecutor Brian Gensel (right) share a story with Sen. Jim Arnold. At right are Sabra Northam and Jefferson County Prosecutor Chad Lewis.



Above, Sen. Sue Glick (left) talks with Huntington County Prosecutor Amy Richison. At left are Hamilton County Prosecutor Lee Buckingham and Hancock County Prosecutor Brent Eaton.



Sen. Liz Brown speaks with Allen County Chief Deputy Prosecutor Mike McAlexander and IPAC Executive Director David Powell.



Finding common ground are Martin County Prosecutor Mike Steiner and Sen. Mark Messmer.