



Reprinted
February 29, 2000

ENGROSSED

HOUSE BILL No. 1051

DIGEST OF HB1051 (Updated February 28, 2000 2:47 PM - DI 98)

Citations Affected: IC 9-14; IC 9-24; IC 9-30; IC 11-12; IC 11-14; IC 12-13; IC 14-15; IC 15-5; IC 25-1; IC 25-22.5; IC 25-23.5; IC 25-27.5; IC 31-14; IC 31-16; IC 31-17; IC 31-37; IC 35-38; IC 35-41; IC 36-10; noncode.

Synopsis: Motor vehicle matters and juveniles. Specifies that a juvenile court must recommend the immediate suspension of a child's driving privileges if the child is alleged to have committed an act that would be an offense under the law concerning operating a vehicle while intoxicated if committed by an adult. Specifies that a juvenile court must, in addition to any other order or decree the court makes, recommend the suspension of a child's driving privileges if the child is a delinquent child due to the commission of a delinquent act that, if committed by an adult, would be an offense under the law concerning operating a vehicle while intoxicated. Provides procedures for reinstatement of the driver's license. Incorporates various provisions currently applicable to an adult whose license is suspended under IC 9-30-5 to a child whose license is suspended under the juvenile law. Reinstates and relocates in a new chapter in the Indiana Code penalty provisions for operating a motor vehicle with suspended or revoked driving privileges, licenses, or permits. Makes other changes related to the crime of operating a motor vehicle with suspended or revoked driving privileges, licenses, or permits. Changes the term 'community service' to 'community restitution or service'.

Effective: July 1, 2000.

Thompson, Kuzman, Dillon, Crooks

(SENATE SPONSORS — JACKMAN, BLADE)

November 23, 1999, read first time and referred to Committee on Courts and Criminal Code.

January 24, 2000, amended, reported — Do Pass.
January 27, 2000, read second time, amended, ordered engrossed.
January 28, 2000, engrossed.
January 31, 2000, read third time, passed. Yeas 90, nays 0.

SENATE ACTION

February 1, 2000, read first time and referred to Committee on Judiciary.
February 24, 2000, amended, reported favorably — Do Pass.
February 28, 2000, read second time, amended, ordered engrossed.

EH 1051—LS 6168/DI 98+



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Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

ENGROSSED HOUSE BILL No. 1051

A BILL FOR AN ACT TO amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-24-19 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2000]:

4 **Chapter 19. Penalty Provisions for Operating a Motor Vehicle**
5 **With Suspended or Revoked Driving Privileges, Licenses, or**
6 **Permits**

7 **Sec. 1. Except as provided in sections 2, 3, and 5 of this chapter,**
8 **a person who operates a motor vehicle upon a highway while the**
9 **person's driving privilege, license, or permit is suspended or**
10 **revoked commits a Class A infraction.**

11 **Sec. 2. A person who operates a motor vehicle upon a highway**
12 **when the person knows or has reason to know that the person's**
13 **driving privilege, license, or permit is suspended or revoked, when**
14 **less than ten (10) years have elapsed between:**

15 (1) **the date a judgment was entered against the person for a**
16 **prior unrelated violation of section 1 of this chapter, this**
17 **section, IC 9-1-4-52 (repealed July 1, 1991), or IC 9-24-18-5(a)**

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1 (repealed July 1, 2000); and
 2 (2) the date the violation described in subdivision (1) was
 3 committed;
 4 commits a Class A misdemeanor.

5 **Sec. 3.** A person who operates a motor vehicle upon a highway
 6 when the person knows or has reason to know that the person's
 7 driving privilege, license, or permit is suspended or revoked, when
 8 the person's suspension or revocation was a result of the person's
 9 conviction of an offense (as defined in IC 35-41-1-19) commits a
 10 Class A misdemeanor.

11 **Sec. 4. (a)** A person who violates section 3 of this chapter
 12 commits a Class D felony if the operation results in bodily injury
 13 or serious bodily injury.

14 **(b)** A person who violates section 3 of this chapter commits a
 15 Class C felony if the operation results in the death of another
 16 person.

17 **Sec. 5. (a)** In addition to any other penalty imposed for a
 18 conviction under this chapter, the court shall recommend that the
 19 person's driving privileges be suspended for a fixed period of not
 20 less than ninety (90) days and not more than two (2) years.

21 **(b)** The court shall specify:

22 (1) the length of the fixed period of suspension; and

23 (2) the date the fixed period of suspension begins;

24 whenever the court makes a recommendation under subsection (a).

25 **Sec. 6.** The bureau shall, upon receiving a record of conviction
 26 of a person upon a charge of driving a vehicle while the person's
 27 driving privilege, permit, or license was suspended, extend the
 28 period of suspension for a fixed period of not less than ninety (90)
 29 days and not more than two (2) years. The bureau shall fix this
 30 period in accordance with the recommendation of the court that
 31 entered the conviction, as provided in section 6 of this chapter.

32 **Sec. 7.** In a prosecution under this chapter, the burden is on the
 33 defendant to prove by a preponderance of the evidence that the
 34 defendant had been issued a driving license or permit that was
 35 valid at the time of the alleged offense.

36 **Sec. 8.** Service by the bureau of motor vehicles of a notice of an
 37 order or an order suspending or revoking a person's driving
 38 privileges by mailing the notice or order by first class mail to the
 39 defendant under this chapter at the last address shown for the
 40 defendant in the records of the bureau of motor vehicles establishes
 41 a rebuttable presumption that the defendant knows or has reason
 42 to know that the person's driving privileges are suspended.



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1 SECTION 2. IC 9-30-5-15, AS AMENDED BY P.L.266-1999,
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2000]: Sec. 15. (a) In addition to any criminal penalty
 4 imposed for an offense under this chapter, the court shall:

5 (1) order:

6 (A) that the person be imprisoned for at least five (5) days; or

7 (B) the person to perform at least thirty (30) days of
 8 community **restitution or** service; and

9 (2) order the person to receive an assessment of the person's
 10 degree of alcohol and drug abuse and, if appropriate, to
 11 successfully complete an alcohol or drug abuse treatment
 12 program, including an alcohol deterrent program if the person
 13 suffers from alcohol abuse;

14 if the person has one (1) previous conviction of operating while
 15 intoxicated.

16 (b) In addition to any criminal penalty imposed for an offense under
 17 this chapter, the court shall:

18 (1) order:

19 (A) that the person be imprisoned for at least ten (10) days; or

20 (B) the person to perform at least sixty (60) days of community
 21 **restitution or** service; and

22 (2) order the person to receive an assessment of the person's
 23 degree of alcohol and drug abuse and, if appropriate, to
 24 successfully complete an alcohol or drug abuse treatment
 25 program, including an alcohol deterrent program if the person
 26 suffers from alcohol abuse;

27 if the person has at least two (2) previous convictions of operating
 28 while intoxicated.

29 (c) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence
 30 imposed under this section may not be suspended. The court may
 31 require that the person serve the term of imprisonment in an
 32 appropriate facility at whatever time or intervals (consecutive or
 33 intermittent) determined appropriate by the court. However:

34 (1) at least forty-eight (48) hours of the sentence must be served
 35 consecutively; and

36 (2) the entire sentence must be served within six (6) months after
 37 the date of sentencing.

38 (d) Notwithstanding IC 35-50-6, a person does not earn credit time
 39 while serving a sentence imposed under this section.

40 SECTION 3. IC 9-30-10-4, AS AMENDED BY P.L.1-2000,
 41 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2000]: Sec. 4. (a) A person who has accumulated at least two

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1 (2) judgments within a ten (10) year period for any of the following
 2 violations, singularly or in combination, not arising out of the same
 3 incident, and with at least one (1) violation occurring after March 31,
 4 1984, is a habitual violator:

5 (1) Reckless homicide resulting from the operation of a motor
 6 vehicle.

7 (2) Voluntary or involuntary manslaughter resulting from the
 8 operation of a motor vehicle.

9 (3) Failure of the driver of a motor vehicle involved in an accident
 10 resulting in death or injury to any person to stop at the scene of
 11 the accident and give the required information and assistance.

12 (4) Operation of a vehicle while intoxicated resulting in death.

13 (5) Before July 1, 1997, operation of a vehicle with at least
 14 ten-hundredths percent (0.10%) alcohol in the blood resulting in
 15 death.

16 (6) After June 30, 1997, operation of a vehicle with an alcohol
 17 concentration equivalent to at least ten-hundredths (0.10) gram of
 18 alcohol per:

19 (A) one hundred (100) milliliters of the blood; or

20 (B) two hundred ten (210) liters of the breath;

21 resulting in death.

22 (b) A person who has accumulated at least three (3) judgments
 23 within a ten (10) year period for any of the following violations,
 24 singularly or in combination, not arising out of the same incident, and
 25 with at least one (1) violation occurring after March 31, 1984, is a
 26 habitual violator:

27 (1) Operation of a vehicle while intoxicated.

28 (2) Before July 1, 1997, operation of a vehicle with at least
 29 ten-hundredths percent (0.10%) alcohol in the blood.

30 (3) After June 30, 1997, operation of a vehicle with an alcohol
 31 concentration equivalent to at least ten-hundredths (0.10) gram of
 32 alcohol per:

33 (A) one hundred (100) milliliters of the blood; or

34 (B) two hundred ten (210) liters of the breath.

35 (4) Operating a motor vehicle while the person's license to do so
 36 has been suspended or revoked as a result of the person's
 37 conviction of an offense under IC 9-1-4-52 (repealed July 1,
 38 1991), or IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-3,
 39 or IC 9-24-19-5.

40 (5) Operating a motor vehicle without ever having obtained a
 41 license to do so.

42 (6) Reckless driving.



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- 1 (7) Criminal recklessness involving the operation of a motor
 2 vehicle.
 3 (8) Drag racing or engaging in a speed contest in violation of law.
 4 (9) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46
 5 (repealed July 1, 1991), IC 9-26-1-1(1), IC 9-26-1-1(2),
 6 IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, or
 7 IC 9-26-1-4.
 8 (10) Any felony under an Indiana motor vehicle statute or any
 9 felony in the commission of which a motor vehicle is used.
 10 A judgment for a violation enumerated in subsection (a) shall be added
 11 to the violations described in this subsection for the purposes of this
 12 subsection.
 13 (c) A person who has accumulated at least ten (10) judgments
 14 within a ten (10) year period for any traffic violation, except a parking
 15 or an equipment violation, of the type required to be reported to the
 16 bureau, singularly or in combination, not arising out of the same
 17 incident, and with at least one (1) violation occurring after March 31,
 18 1984, is a habitual violator. However, at least one (1) of the judgments
 19 must be for a violation enumerated in subsection (a) or (b). A judgment
 20 for a violation enumerated in subsection (a) or (b) shall be added to the
 21 judgments described in this subsection for the purposes of this
 22 subsection.
 23 SECTION 4. IC 11-12-1-2.5 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.5. (a) The community
 25 corrections programs described in section 2 of this chapter may include
 26 the following:
 27 (1) Residential or work release programs.
 28 (2) House arrest, home detention, and electronic monitoring
 29 programs.
 30 (3) Community ~~service~~ restitution **or service** programs.
 31 (4) Victim-offender reconciliation programs.
 32 (5) Jail services programs.
 33 (6) Jail work crews.
 34 (7) Community work crews.
 35 (8) Juvenile detention alternative programs.
 36 (9) Day reporting programs.
 37 (10) Other community corrections programs approved by the
 38 department.
 39 (b) The community corrections board may also coordinate and
 40 operate educational, mental health, drug or alcohol abuse counseling,
 41 housing, as a part of any of these programs, or supervision services for
 42 persons described in section 2 of this chapter.

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1 SECTION 5. IC 11-12-8-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. As used in this
3 chapter, "community corrections program" means a community based
4 program that provides preventive services, services to criminal or
5 juvenile offenders, services to persons charged with a crime or an act
6 of delinquency, services to persons diverted from the criminal or
7 delinquency process, services to persons sentenced to imprisonment,
8 or services to victims of crime or delinquency that may include the
9 following:

- 10 (1) Residential programs.
- 11 (2) Work release programs.
- 12 (3) House arrest, home detention, and electronic monitoring
13 programs.
- 14 (4) Community ~~service~~ restitution **or** service programs.
- 15 (5) Victim-offender reconciliation programs.
- 16 (6) Jail services programs.
- 17 (7) Jail work crews.
- 18 (8) Community work crews.
- 19 (9) Juvenile detention alternative programs.
- 20 (10) Study release programs.

21 SECTION 6. IC 11-14-4-3 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A transition
23 officer to whom a boot camp graduate reports under section 1 of this
24 chapter shall coordinate conditions of transition for the graduate with
25 the probation department of the sentencing court, including the
26 following:

- 27 (1) Continued education.
- 28 (2) Follow-up counseling.
- 29 (3) Community ~~restitution~~ **or** service work.
- 30 (4) Continuing drug and alcohol treatment intervention.
- 31 (5) Activities designed to assist a boot camp graduate with
32 reintegration into the community.

33 (b) A transition officer shall schedule personal contact with the
34 graduate.

35 SECTION 7. IC 12-13-5-2 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. The division shall
37 administer the following:

- 38 (1) The Interstate Compact on the Placement of Children
39 (IC 12-17-8).
- 40 (2) Any sexual offense services.
- 41 (3) A child development associate scholarship program.
- 42 (4) Any school age dependent care program.

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- 1 (5) Migrant day care services.
 2 (6) Any youth services programs.
 3 (7) Project safe place.
 4 (8) Prevention services to high risk youth.
 5 (9) Any commodities program.
 6 (10) The migrant nutrition program.
 7 (11) Any emergency shelter programs.
 8 (12) Any weatherization programs.
 9 (13) The Housing Assistance Act of 1937 (42 U.S.C. 1437).
 10 (14) The home visitation and social services program.
 11 (15) The educational consultants program.
 12 (16) Child abuse prevention programs.
 13 (17) Community **restitution or** service programs.
 14 (18) The crisis nursery program.
 15 (19) Energy assistance programs.
 16 (20) Domestic violence programs.
 17 (21) Social services programs.
 18 (22) Assistance to migrants and seasonal farmworkers.
 19 (23) The step ahead comprehensive early childhood grant
 20 program.
 21 (24) Any other program:
 22 (A) designated by the general assembly; or
 23 (B) administered by the federal government under grants
 24 consistent with the duties of the division.
- 25 SECTION 8. IC 14-15-11-11 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) Except as
 27 provided in subsection (b), a person who operates a motorboat upon
 28 public waters while the person's Indiana driver's license is suspended
 29 or revoked commits a Class A infraction. However, if:
 30 (1) a person knowingly or intentionally violates this subsection;
 31 and
 32 (2) less than ten (10) years have elapsed between the date a
 33 judgment was entered against the person for a prior unrelated
 34 violation of this subsection, IC 9-1-4-52 (repealed July 1, 1991),
 35 **or IC 9-24-18-5 (repealed July 1, 2000), or IC 9-24-19** and the
 36 date the violation described in subdivision (1) was committed;
 37 the person commits a Class A misdemeanor.
 38 (b) If:
 39 (1) a person operates a motorboat upon public waters while the
 40 person's Indiana driver's license is suspended or revoked; and
 41 (2) the person's suspension or revocation was a result of the
 42 person's conviction of an offense (as defined in IC 35-41-1-19);

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1 the person commits a Class A misdemeanor. However, notwithstanding
 2 IC 35-50-3-2, a person who violates this subsection shall be imprisoned
 3 for a fixed term of not less than sixty (60) days and not more than one
 4 (1) year. Notwithstanding IC 35-50-3-1, the court may not suspend any
 5 part of the sentence except that part of the sentence exceeding sixty
 6 (60) days.

7 (c) In addition to any other penalty imposed for a conviction under
 8 this section, the court shall recommend that the person's privileges to
 9 operate a motorboat upon public waters be suspended for a fixed period
 10 of not less than ninety (90) days and not more than two (2) years.

11 (d) The bureau, upon receiving a record of conviction of a person on
 12 a charge of operating a motorboat while the person's driver's license
 13 was suspended, shall extend the period of suspension for a fixed period
 14 of not less than ninety (90) days and not more than two (2) years. The
 15 bureau shall fix this period in accordance with the recommendation of
 16 the court that entered the conviction.

17 (e) In a prosecution under this section, the burden is on the
 18 defendant to prove by a preponderance of the evidence that, at the time
 19 of the alleged offense, the defendant held a valid Indiana driver's
 20 license.

21 SECTION 9. IC 15-5-1.1-15.1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15.1. (a) The board
 23 may refuse to issue a registration or may issue a probationary
 24 registration to an applicant for registration as a veterinary technician
 25 under this chapter if:

- 26 (1) the applicant has been disciplined by a licensing entity of
- 27 another state or jurisdiction; and
- 28 (2) the violation for which the applicant was disciplined has a
- 29 direct bearing on the applicant's ability to competently practice as
- 30 a veterinary technician in Indiana.

31 (b) Whenever issuing a probationary registration under this section,
 32 the board may impose any or a combination of the following
 33 conditions:

- 34 (1) Report regularly to the board upon the matters that are the
- 35 basis of the discipline of the other state or jurisdiction.
- 36 (2) Limit practice to those areas prescribed by the board.
- 37 (3) Continue or renew professional education.
- 38 (4) Engage in community **restitution or** service without
- 39 compensation for a number of hours specified by the board.

40 (c) The board shall remove any limitations placed on a probationary
 41 registration issued under this section if the board finds after a hearing
 42 that the deficiency that required disciplinary action has been remedied.



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1 (d) This section does not apply to an individual who currently holds
2 a registration certificate under this chapter.

3 SECTION 10. IC 25-1-9-9, AS AMENDED BY P.L.22-1999,
4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2000]: Sec. 9. (a) The board may impose any of the following
6 sanctions, singly or in combination, if it finds that a practitioner is
7 subject to disciplinary sanctions under section 4, 5, 6, or 6.7 of this
8 chapter or IC 25-1-5-4:

- 9 (1) Permanently revoke a practitioner's license.
10 (2) Suspend a practitioner's license.
11 (3) Censure a practitioner.
12 (4) Issue a letter of reprimand.
13 (5) Place a practitioner on probation status and require the
14 practitioner to:

15 (A) report regularly to the board upon the matters that are the
16 basis of probation;

17 (B) limit practice to those areas prescribed by the board;

18 (C) continue or renew professional education under a
19 preceptor, or as otherwise directed or approved by the board,
20 until a satisfactory degree of skill has been attained in those
21 areas that are the basis of the probation; or

22 (D) perform or refrain from performing any acts, including
23 community **restitution or** service without compensation, that
24 the board considers appropriate to the public interest or to the
25 rehabilitation or treatment of the practitioner.

26 (6) Assess a fine against the practitioner in an amount not to
27 exceed one thousand dollars (\$1,000) for each violation listed in
28 section 4 of this chapter, except for a finding of incompetency due
29 to a physical or mental disability. When imposing a fine, the
30 board shall consider a practitioner's ability to pay the amount
31 assessed. If the practitioner fails to pay the fine within the time
32 specified by the board, the board may suspend the practitioner's
33 license without additional proceedings. However, a suspension
34 may not be imposed if the sole basis for the suspension is the
35 practitioner's inability to pay a fine.

36 (b) The board may withdraw or modify the probation under
37 subsection (a)(5) if it finds, after a hearing, that the deficiency that
38 required disciplinary action has been remedied, or that changed
39 circumstances warrant a modification of the order.

40 SECTION 11. IC 25-1-9-16 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) The board may
42 refuse to issue a license or may issue a probationary license to an

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applicant for licensure if:

- (1) the applicant has been disciplined by a licensing entity of another state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and
- (2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to those areas prescribed by the board.
- (3) Continue or renew professional education.
- (4) Engage in community **restitution or** service without compensation for a number of hours specified by the board.
- (5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

SECTION 12. IC 25-1-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the board;
 - (C) continue or renew professional education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
 - (D) perform or refrain from performing any acts, including community **restitution or** service without compensation, that the board considers appropriate to the public interest or to the

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1 rehabilitation or treatment of the practitioner.

2 (6) Assess a civil penalty against the practitioner for not more

3 than one thousand dollars (\$1,000) for each violation listed in

4 sections 5 through 9 of this chapter except for a finding of

5 incompetency due to a physical or mental disability.

6 (b) When imposing a civil penalty under subsection (a)(6), the board

7 shall consider a practitioner's ability to pay the amount assessed. If the

8 practitioner fails to pay the civil penalty within the time specified by

9 the board, the board may suspend the practitioner's license without

10 additional proceedings. However, a suspension may not be imposed if

11 the sole basis for the suspension is the practitioner's inability to pay a

12 civil penalty.

13 (c) The board may withdraw or modify the probation under

14 subsection (a)(5) if the board finds after a hearing that the deficiency

15 that required disciplinary action has been remedied or that changed

16 circumstances warrant a modification of the order.

17 SECTION 13. IC 25-22.5-5-2.5 IS AMENDED TO READ AS

18 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.5. (a) The board may:

19 (1) refuse to issue a license;

20 (2) issue an unlimited license; or

21 (3) issue a probationary license to an applicant for licensure by

22 examination or endorsement;

23 if the applicant has had a license revoked under this chapter and is

24 applying for a new license after the expiration of the period prescribed

25 by IC 25-1-9-12.

26 (b) When issuing a probationary license under this section, the

27 board may require the individual holding the license to perform any of

28 the following acts as a condition for the issuance of a probationary

29 license:

30 (1) Submit a regular report to the board concerning matters that

31 are the basis of probation.

32 (2) Limit the practice of the individual to the areas prescribed by

33 the board.

34 (3) Continue or renew the individual's professional education.

35 (4) Perform or refrain from performing acts, as the board

36 considers appropriate to the public interest or the rehabilitation of

37 the individual.

38 (5) Engage in community **restitution or** service without

39 compensation for a number of hours specified by the board.

40 (6) Any combination of these conditions.

41 (c) If the board determines following a hearing that the deficiency

42 requiring disciplinary action concerning the individual has been

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1 remedied, the board shall remove any limitation placed on the
2 individual's license under subsection (b).

3 SECTION 14. IC 25-23.5-5-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) If the committee
5 issues a probationary certificate under section 7 of this chapter, the
6 committee may require the person who holds the certificate to perform
7 one (1) or more of the following conditions:

- 8 (1) Report regularly to the committee upon a matter that is the
9 basis for the probation.
- 10 (2) Limit practice to areas prescribed by the committee.
- 11 (3) Continue or renew professional education.
- 12 (4) Engage in community **restitution or** service without
13 compensation for a number of hours specified by the committee.

14 (b) The committee shall remove a limitation placed on a
15 probationary certificate if after a hearing the committee finds that the
16 deficiency that caused the limitation has been remedied.

17 SECTION 15. IC 25-27.5-4-3 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) If the committee
19 issues a probationary certificate under section 2 of this chapter, the
20 committee may require the individual who holds the certificate to meet
21 at least one (1) of the following conditions:

- 22 (1) Report regularly to the committee upon a matter that is the
23 basis for the probation.
- 24 (2) Limit practice to areas prescribed by the committee.
- 25 (3) Continue or renew professional education.
- 26 (4) Engage in community **restitution or** service without
27 compensation for a number of hours specified by the committee.

28 (b) The committee shall remove a limitation placed on a
29 probationary certificate if after a hearing the committee finds that the
30 deficiency that caused the limitation has been remedied.

31 SECTION 16. IC 31-14-12-3 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) If the court finds
33 that a party is delinquent as a result of an intentional violation of an
34 order for support, the court may find the party in contempt of court.

35 (b) The court may order a party who is found in contempt of court
36 under this section to perform community **restitution or** service without
37 compensation in a manner specified by the court.

38 SECTION 17. IC 31-14-15-4 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. A court that finds a
40 violation without justifiable cause by a custodial parent of an injunction
41 or a temporary restraining order issued under this chapter (or
42 IC 31-6-6.1-12.1 before its repeal):

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- 1 (1) shall find the custodial parent in contempt of court;
- 2 (2) shall order the exercise of visitation that was not exercised due
- 3 to the violation under this section (or IC 31-6-6.1-12.1(e) before
- 4 its repeal) at a time the court considers compatible with the
- 5 schedules of the noncustodial parent and the child;
- 6 (3) may order payment by the custodial parent of reasonable
- 7 attorney's fees, costs, and expenses to the noncustodial parent;
- 8 and
- 9 (4) may order the custodial parent to perform community
- 10 **restitution or** service without compensation in a manner
- 11 specified by the court.

12 SECTION 18. IC 31-16-12-6 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. If the court finds that
 14 a party is delinquent as a result of an intentional violation of an order
 15 for support, the court may find the party in contempt of court. The court
 16 may order a party who is found in contempt of court under this section
 17 to perform community **restitution or** service without compensation in
 18 a manner specified by the court.

19 SECTION 19. IC 31-17-4-8 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. A court that finds an
 21 intentional violation without justifiable cause by a custodial parent of
 22 an injunction or a temporary restraining order issued under this chapter
 23 (or IC 31-1-11.5-26 before its repeal):

- 24 (1) shall find the custodial parent in contempt of court;
- 25 (2) shall order the exercise of visitation that was not exercised due
- 26 to the violation under this section at a time the court considers
- 27 compatible with the schedules of the noncustodial parent and the
- 28 child;
- 29 (3) may order payment by the custodial parent of reasonable
- 30 attorney's fees, costs, and expenses to the noncustodial parent;
- 31 and
- 32 (4) may order the custodial parent to perform community
- 33 **restitution or** service without compensation in a manner
- 34 specified by the court.

35 SECTION 20. IC 31-37-5-7 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 37 1, 2000]: **Sec. 7. (a) If a child is alleged to have committed an act
 38 that would be an offense under IC 9-30-5 if committed by an adult,
 39 a juvenile court shall recommend the immediate suspension of the
 40 child's driving privileges as provided in IC 9-30-5. If a court
 41 recommends suspension of a child's driving privileges under this
 42 section, the bureau of motor vehicles shall comply with the**

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1 recommendation of suspension as provided in IC 9-30-6-12.
 2 (b) If a court recommends suspension of a child's driving
 3 privileges under this section, the court may order the bureau of
 4 motor vehicles to reinstate the child's driving privileges as
 5 provided in IC 9-30-6-11.
 6 (c) If a juvenile court orders the bureau of motor vehicles to
 7 reinstate a child's driving privileges under subsection (b), the
 8 bureau shall comply with the order. Unless the order for
 9 reinstatement is issued as provided under IC 9-30-6-11(a)(2)
 10 because of a violation of the speedy trial provisions applicable to
 11 the juvenile court, the bureau shall also do the following:
 12 (1) Remove any record of the suspension from the bureau's
 13 record keeping system.
 14 (2) Reinstate the privileges without cost to the person.
 15 (d) If a juvenile court orders a suspension under this section and
 16 the child did not refuse to submit to a chemical test offered under
 17 IC 9-30-6-2 during the investigation of the delinquent act that
 18 would have been an offense under IC 9-30-5 if committed by an
 19 adult, the juvenile court may grant the child probationary driving
 20 privileges for one hundred eighty (180) days in conformity with the
 21 procedures in IC 9-30-5-12. The standards and procedures in
 22 IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this
 23 subsection.
 24 (e) If a proceeding described in this section is terminated in
 25 favor of the child and the child did not refuse to submit to a
 26 chemical test offered as provided under IC 9-30-6-2 during the
 27 investigation of the delinquent act that would be an offense under
 28 IC 9-30-5 if committed by an adult, the bureau shall remove any
 29 record of the suspension, including the reasons for the suspension,
 30 from the child's official driving record.
 31 (f) The bureau of motor vehicles may adopt rules under
 32 IC 4-22-2 to carry out this section.
 33 SECTION 21. IC 31-37-19-5 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) This section
 35 applies if a child is a delinquent child under IC 31-37-1.
 36 (b) The juvenile court may, in addition to an order under section 6
 37 of this chapter, enter at least one (1) of the following dispositional
 38 decrees:
 39 (1) Order supervision of the child by:
 40 (A) the probation department; or
 41 (B) the county office of family and children.
 42 As a condition of probation under this subdivision, the court shall

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1 after a determination under ~~IC 5-2-12-4(2)~~ **IC 5-2-12-4(3)** require a
 2 child who is adjudicated a delinquent child for an act that would be an
 3 offense described in IC 5-2-12-4(1) if committed by an adult to
 4 register with a local law enforcement authority under IC 5-2-12.

5 (2) Order the child to receive outpatient treatment:

6 (A) at a social service agency or a psychological, a psychiatric,
 7 a medical, or an educational facility; or

8 (B) from an individual practitioner.

9 (3) Order the child to surrender the child's driver's license to the
 10 court for a specified period of time.

11 (4) Order the child to pay restitution if the victim provides
 12 reasonable evidence of the victim's loss, which the child may
 13 challenge at the dispositional hearing.

14 (5) Partially or completely emancipate the child under section 27
 15 of this chapter.

16 (6) Order the child to attend an alcohol and drug services program
 17 established under IC 12-23-14.

18 (7) Order the child to perform community **restitution or** service
 19 for a specified period of time.

20 (8) Order wardship of the child as provided in section 9 of this
 21 chapter.

22 SECTION 22. IC 31-37-19-17.3 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2000]: **Sec. 17.3. (a) This section applies if a**
 25 **child is a delinquent child under IC 31-37-1 due to the commission**
 26 **of a delinquent act that, if committed by an adult, would be an**
 27 **offense under IC 9-30-5.**

28 (b) **The juvenile court shall, in addition to any other order or**
 29 **decree the court makes under this chapter, recommend the**
 30 **suspension of the child's driving privileges as provided in**
 31 **IC 9-30-5. If a court recommends suspension of a child's driving**
 32 **privileges under this section, the bureau of motor vehicles shall**
 33 **comply with the recommendation of suspension as provided in**
 34 **IC 9-30-6-12.**

35 (c) **If a court recommends suspension of a child's driving**
 36 **privileges under this section, the court may order the bureau of**
 37 **motor vehicles to reinstate the child's driving privileges as**
 38 **provided in IC 9-30-6-11.**

39 (d) **If a juvenile court orders the bureau of motor vehicles to**
 40 **reinstate a child's driving privileges under subsection (c), the**
 41 **bureau shall comply with the order. Unless the order for**
 42 **reinstatement is issued as provided under IC 9-30-6-11(a)(2)**



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1 because of a violation of the speedy trial provisions applicable to
2 the juvenile court, the bureau shall also do the following:

3 (1) Remove any record of the suspension from the bureau's
4 record keeping system.

5 (2) Reinstate the privileges without cost to the person.

6 (e) If:

7 (1) a juvenile court recommends suspension of a child's
8 driving privileges under this section; and

9 (2) the child did not refuse to submit to a chemical test offered
10 as provided under IC 9-30-6-2 during the investigation of the
11 delinquent act that would be an offense under IC 9-30-5 if
12 committed by an adult;

13 the juvenile court may stay the execution of the suspension of the
14 child's driving privileges and grant the child probationary driving
15 privileges for one hundred eighty (180) days.

16 (f) If a juvenile court orders a suspension under this section and
17 the child did not refuse to submit to a chemical test offered under
18 IC 9-30-6-2 during the investigation of the delinquent act that
19 would have been an offense under IC 9-30-5 if committed by an
20 adult, the juvenile court may grant the child probationary driving
21 privileges for one hundred eighty (180) days in conformity with the
22 procedures in IC 9-30-5-12. The standards and procedures in
23 IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this
24 subsection.

25 (g) A child whose driving privileges are suspended under this
26 section is entitled to credit for any days during which the license
27 was suspended under IC 31-37-5-7, if the child did not refuse to
28 submit to a chemical test offered as provided under IC 9-30-6-2
29 during the investigation of the delinquent act that would be an
30 offense under IC 9-30-5 if committed by an adult.

31 (h) A period of suspension of driving privileges imposed under
32 this section must be consecutive to any period of suspension
33 imposed under IC 31-37-5-7. However, if the juvenile court finds
34 in the sentencing order that it is in the best interest of society, the
35 juvenile court may terminate all or any part of the remaining
36 suspension under IC 31-37-5-7.

37 (i) The bureau of motor vehicles may adopt rules under
38 IC 4-22-2 to carry out this section.

39 SECTION 23. IC 31-37-19-18 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 18. If the court orders
41 invalidation or denial of issuance of a driver's license or permit as
42 described in IC 31-37-5-7 or section 4, 13, 14, 15, 16, ~~or~~ 17, or 17.3



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1 of this chapter (or IC 31-6-4-15.9(c), IC 31-6-4-15.9(d),
 2 IC 31-6-4-15.9(e), or IC 31-6-4-15.9(f) before the repeal of
 3 IC 31-6-4-15.9):

4 (1) the bureau of motor vehicles shall comply with the order for
 5 invalidation or denial of issuance; and

6 (2) the child shall surrender to the court all driver's licenses or
 7 permits of the child and the court shall immediately forward the
 8 licenses or permits to the bureau of motor vehicles.

9 **If a juvenile court recommends suspension of driving privileges**
 10 **under section 17.3 of this chapter, IC 9-30-6-12(b), IC 9-30-6-12(c),**
 11 **and IC 9-30-6-12(d) apply to the child's driving privileges.**

12 SECTION 24. IC 35-38-2.5-6 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. An order for home
 14 detention of an offender under section 5 of this chapter must include
 15 the following:

16 (1) A requirement that the offender be confined to the offender's
 17 home at all times except when the offender is:

18 (A) working at employment approved by the court or traveling
 19 to or from approved employment;

20 (B) unemployed and seeking employment approved for the
 21 offender by the court;

22 (C) undergoing medical, psychiatric, mental health treatment,
 23 counseling, or other treatment programs approved for the
 24 offender by the court;

25 (D) attending an educational institution or a program approved
 26 for the offender by the court;

27 (E) attending a regularly scheduled religious service at a place
 28 of worship; or

29 (F) participating in a community work release or community
 30 **restitution or** service program approved for the offender by
 31 the court.

32 (2) Notice to the offender that violation of the order for home
 33 detention may subject the offender to prosecution for the crime of
 34 escape under IC 35-44-3-5.

35 (3) A requirement that the offender abide by a schedule prepared
 36 by the probation department, or by a community corrections
 37 program ordered to provide supervision of the offender's home
 38 detention, specifically setting forth the times when the offender
 39 may be absent from the offender's home and the locations the
 40 offender is allowed to be during the scheduled absences.

41 (4) A requirement that the offender is not to commit another
 42 crime during the period of home detention ordered by the court.

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- 1 (5) A requirement that the offender obtain approval from the
- 2 probation department or from a community corrections program
- 3 ordered to provide supervision of the offender's home detention
- 4 before the offender changes residence or the schedule described
- 5 in subdivision (3).
- 6 (6) A requirement that the offender maintain:
- 7 (A) a working telephone in the offender's home; and
- 8 (B) if ordered by the court, a monitoring device in the
- 9 offender's home or on the offender's person, or both.
- 10 (7) A requirement that the offender pay a home detention fee set
- 11 by the court in addition to the probation user's fee required under
- 12 IC 35-38-2-1 or IC 31-40. However, the fee set under this
- 13 subdivision may not exceed the maximum fee specified by the
- 14 department of correction under IC 11-12-2-12.
- 15 (8) A requirement that the offender abide by other conditions of
- 16 probation set by the court under IC 35-38-2-2.3.

17 SECTION 25. IC 35-41-1-4.6 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2000]: **Sec. 4.6. "Community restitution or**
 20 **service" means performance of services directly for a:**

- 21 (1) **victim;**
- 22 (2) **nonprofit entity; or**
- 23 (3) **governmental entity;**

24 **without compensation, including graffiti abatement, park**
 25 **maintenance, and other community service activities. The term**
 26 **does not include the reimbursement under IC 35-50-5-3 or another**
 27 **law of damages or expenses incurred by a victim or another person**
 28 **as the result of a violation of law.**

29 SECTION 26. IC 36-10-2-4 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. A unit may establish,
 31 aid, maintain, and operate libraries and museums, cultural, historical,
 32 and scientific facilities and programs, and community **restitution or**
 33 **service facilities and programs.**

34 SECTION 27. THE FOLLOWING ARE REPEALED [EFFECTIVE
 35 JULY 1, 2000]: IC 9-14-3.5-9; IC 9-24-18-5.

36 SECTION 28. [EFFECTIVE JULY 1, 2000] **The change of**
 37 **references in the Indiana Code from community service to**
 38 **community restitution or service by this act shall not be construed**
 39 **to:**

- 40 (1) **release a person from a court order issued before July 1,**
- 41 **2000, requiring the person to perform community service; or**
- 42 (2) **limit the power of an entity to operate any program as a**

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1 **community restitution program after June 30, 2000, that was**
2 **operated before July 1, 2000, as a community service**
3 **program.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1051, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT TO amend the Indiana Code concerning motor vehicles.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-14-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. ~~Personal information may be disclosed under section 10 of this chapter to a person who demonstrates, in a form and manner prescribed by the bureau, that written consent has been obtained from the person who is the subject of the information. The bureau may not knowingly disseminate a person's:~~

- (1) driver's license photograph or computerized image;
- (2) Social Security number; or
- (3) medical or disability information;

from a motor vehicle record (as defined in section 4 of this chapter) without the express consent of the person to whom such information pertains, except as provided under sections 8, 10, and 11 of this chapter. However, this section does not affect the use of anatomical gift information on a person's driver's license or the administration of anatomical initiatives in Indiana.

SECTION 2. IC 9-14-3.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. The bureau may disclose personal information to a person if the person requesting the information provides proof of identity and represents that the use of the personal information will be strictly limited to at least one (1) of the following:

- (1) For use by a government agency, including a court or law enforcement agency, in carrying out its functions, or a person acting on behalf of a government agency in carrying out its functions.
- (2) For use in connection with matters concerning:
 - (A) motor vehicle or driver safety and theft;
 - (B) motor vehicle emissions;
 - (C) motor vehicle product alterations, recalls, or advisories;
 - (D) performance monitoring of motor vehicles, motor vehicle parts, and dealers;

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- (E) motor vehicle market research activities, including survey research; and
- (F) the removal of nonowner records from the original owner records of motor vehicle manufacturers.
- (3) For use in the normal course of business by a business or its agents, employees, or contractors, but only:
- (A) to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors; and
- (B) if information submitted to a business is not correct or is no longer correct, to obtain the correct information only for purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.
- (4) For use in connection with a civil, a criminal, an administrative, or an arbitration proceeding in a court or government agency or before a self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or under an order of a court.
- (5) For use in research activities, and for use in producing statistical reports, as long as the personal information is not published, re-disclosed, or used to contact the individuals who are the subject of the personal information.
- (6) For use by an insurer, an insurance support organization, or a self-insured entity, or the agents, employees, or contractors of an insurer, an insurance support organization, or a self-insured entity in connection with claims investigation activities, anti-fraud activities, rating, or underwriting.
- (7) For use in providing notice to the owners of towed or impounded vehicles.
- (8) For use by a licensed private investigative agency or licensed security service for a purpose allowed under this section.
- (9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2710 et seq.).
- (10) For use in connection with the operation of private toll transportation facilities.
- (11) For ~~distribution of automotive-related surveys, marketing, or solicitations after the bureau has implemented methods and procedures to ensure that:~~

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(A) a person who is the subject of personal information requested is provided an opportunity, in a clear and conspicuous manner, to prohibit the uses;

(B) the information will be used, rented, or sold only for bulk distribution for automotive-related surveys, marketing, and solicitations; and

(C) the automotive-related surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that such material not be directed at them: any use in response to requests for individual motor vehicle records when the bureau has obtained the written consent of the person to whom such personal information pertains.

(12) For bulk distribution for surveys, marketing, or solicitations when the bureau has obtained the written consent of the person to whom such personal information pertains.

(13) For use by any person, when the person demonstrates, in a form and manner prescribed by the bureau, that written consent has been obtained from the individual who is the subject of the information.

(14) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

SECTION 3. IC 9-14-3.5-11, AS AMENDED BY P.L.222-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) Personal information that is contained in an individual record may be disclosed to a person, without regard to intended use, if the bureau has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's licenses, registrations, titles, or identification documents:

(1) notice that personal information collected by the bureau may be disclosed to any person making a request for an individual record; and

(2) an opportunity for each person who is the subject of a record to prohibit the disclosure:

(b) The bureau shall disclose the name and address of a purchaser of a special group recognition license plate issued under IC 9-18-25-2(3) supporting a state educational institution (as defined in IC 20-12-0.5-1) to a representative designated and authorized to receive the personal information by the state educational institution, if the purchaser purchased the plate **bureau obtained the written consent of the purchaser regarding the disclosure and the plate was purchased** in a year:



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- (1) beginning after December 31, 1998; and
- (2) in which at least ten thousand (10,000) of the special group's recognition license plates issued under IC 9-18-25-2(3) are sold or renewed.

SECTION 4. IC 9-14-3.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. (a) An authorized recipient of personal information, except a recipient under section 10(11) or ~~11~~ **10(12)** of this chapter, may resell or re-disclose the information for any use allowed under section 10 of this chapter, except for a use under section 10(11) or **10(12)** of this chapter.

(b) An authorized recipient of a record under section ~~11~~ **10(11)** of this chapter may resell or re-disclose personal information for any purpose.

(c) An authorized recipient of personal information under IC 9-14-3-6 and section ~~10(11)~~ **10(12)** of this chapter may resell or re-disclose the personal information for use only in accordance with section ~~10(11)~~ **10(12)** of this chapter.

(d) Except for a recipient under section ~~11~~ **10(11)** of this chapter, a recipient who resells or re-discloses personal information is required to maintain and make available for inspection to the bureau, upon request, for at least five (5) years, records concerning:

- (1) each person that receives the information; and
- (2) the permitted use for which the information was obtained.

SECTION 5. IC 9-24-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 19. Penalty Provisions for Operating a Motor Vehicle With Suspended or Revoked Driving Privileges, Licenses, or Permits

Sec. 1. Except as provided in sections 2, 3, and 5 of this chapter, a person who operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked commits a Class A infraction.

Sec. 2. A person who knowingly or intentionally operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked, when less than ten (10) years have elapsed between:

- (1) the date a judgment was entered against the person for a prior unrelated violation of section 1 of this chapter, this section, IC 9-1-4-52 (repealed July 1, 1991), or IC 9-24-18-5(a) (repealed July 1, 2000); and
- (2) the date the violation described in subdivision (1) was



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committed;
 commits a Class A misdemeanor.

Sec. 3. A person who knowingly or intentionally operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked, when the person's suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-41-1-19) commits a Class A misdemeanor. However, notwithstanding IC 35-50-3-2, and except as provided in section 4 of this chapter, a person who violates this section shall be imprisoned for a fixed term of not less than sixty (60) days and not more than one (1) year. Notwithstanding IC 35-50-3-1, and except as provided in section 4 of this chapter, the court may not suspend any part of the term of imprisonment except that part in excess of sixty (60) days.

Sec. 4. The nonsuspendible fixed term of imprisonment imposed under section 3 of this chapter does not apply to a person who has committed a Class A misdemeanor under section 2 of this chapter as a result of a violation of IC 9-25-6-19 or IC 12-17-2-35.

Sec. 5. A person who knowingly or intentionally operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked as a result of a misdemeanor or felony conviction commits a Class D felony. However, the offense is a Class C felony if the operation results in the death of another person.

Sec. 6. (a) In addition to any other penalty imposed for a conviction under this chapter, the court shall recommend that the person's driving privileges be suspended for a fixed period of not less than ninety (90) days and not more than two (2) years.

(b) The court shall specify:

- (1) the length of the fixed period of suspension; and
- (2) the date the fixed period of suspension begins;

whenever the court makes a recommendation under subsection (a).

Sec. 7. The bureau shall, upon receiving a record of conviction of a person upon a charge of driving a vehicle while the person's driving privilege, permit, or license was suspended, extend the period of suspension for a fixed period of not less than ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction, as provided in section 6 of this chapter.

Sec. 8. In a prosecution under this chapter, the burden is on the defendant to prove by a preponderance of the evidence that the defendant had been issued a driving license or permit that was

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valid at the time of the alleged offense.

SECTION 6. IC 9-30-10-4, AS AMENDED BY P.L.1-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) A person who has accumulated at least two (2) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

- (1) Reckless homicide resulting from the operation of a motor vehicle.
- (2) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.
- (3) Failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance.
- (4) Operation of a vehicle while intoxicated resulting in death.
- (5) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death.
- (6) After June 30, 1997, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:
 - (A) one hundred (100) milliliters of the blood; or
 - (B) two hundred ten (210) liters of the breath;
 resulting in death.

(b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

- (1) Operation of a vehicle while intoxicated.
- (2) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood.
- (3) After June 30, 1997, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:
 - (A) one hundred (100) milliliters of the blood; or
 - (B) two hundred ten (210) liters of the breath.
- (4) Operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991), or IC 9-24-18-5(b) (repealed July 1, 2000), IC9-24-19-3,

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or IC 9-24-19-5.

(5) Operating a motor vehicle without ever having obtained a license to do so.

(6) Reckless driving.

(7) Criminal recklessness involving the operation of a motor vehicle.

(8) Drag racing or engaging in a speed contest in violation of law.

(9) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2), IC9-26-1-3, or IC 9-26-1-4.

(10) Any felony under an Indiana motor vehicle statute or any felony in the commission of which a motor vehicle is used.

A judgment for a violation enumerated in subsection (a) shall be added to the violations described in this subsection for the purposes of this subsection.

(c) A person who has accumulated at least ten (10) judgments within a ten (10) year period for any traffic violation, except a parking or an equipment violation, of the type required to be reported to the bureau, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator. However, at least one (1) of the judgments must be for a violation enumerated in subsection (a) or (b). A judgment for a violation enumerated in subsection (a) or (b) shall be added to the judgments described in this subsection for the purposes of this subsection.

SECTION 7. IC 14-15-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) Except as provided in subsection (b), a person who operates a motorboat upon public waters while the person's Indiana driver's license is suspended or revoked commits a Class A infraction. However, if:

(1) a person knowingly or intentionally violates this subsection; and

(2) less than ten (10) years have elapsed between the date a judgment was entered against the person for a prior unrelated violation of this subsection, IC 9-1-4-52 (repealed July 1, 1991), **or IC 9-24-18-5 (repealed July 1, 2000), or IC 9-24-19** and the date the violation described in subdivision (1) was committed;

the person commits a Class A misdemeanor.

(b) If:

(1) a person operates a motorboat upon public waters while the person's Indiana driver's license is suspended or revoked; and



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(2) the person's suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-41-1-19); the person commits a Class A misdemeanor. However, notwithstanding IC 35-50-3-2, a person who violates this subsection shall be imprisoned for a fixed term of not less than sixty (60) days and not more than one (1) year. Notwithstanding IC 35-50-3-1, the court may not suspend any part of the sentence except that part of the sentence exceeding sixty (60) days.

(c) In addition to any other penalty imposed for a conviction under this section, the court shall recommend that the person's privileges to operate a motorboat upon public waters be suspended for a fixed period of not less than ninety (90) days and not more than two (2) years.

(d) The bureau, upon receiving a record of conviction of a person on a charge of operating a motorboat while the person's driver's license was suspended, shall extend the period of suspension for a fixed period of not less than ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction.

(e) In a prosecution under this section, the burden is on the defendant to prove by a preponderance of the evidence that, at the time of the alleged offense, the defendant held a valid Indiana driver's license."

Page 1, between lines 13 and 14, begin a new paragraph and insert:

"(c) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (b), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's recordkeeping system.

(2) Reinstate the privileges without cost to the person.

(d) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in IC 9-30-5-12. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(e) If a proceeding described in this section is terminated in



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favor of the child and the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult, the bureau shall remove any record of the suspension, including the reasons for the suspension, from the child's official driving record.

(f) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section."

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"(d) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (c), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

- (1) Remove any record of the suspension from the bureau's recordkeeping system.
- (2) Reinstate the privileges without cost to the person.

(e) If:

- (1) a juvenile court recommends suspension of a child's driving privileges under this section; and
- (2) the child did not refuse to submit to a chemical test offered as provided under IC9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult;

the juvenile court may stay the execution of the suspension of the child's driving privileges and grant the child probationary driving privileges for one hundred eighty (180) days.

(f) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in IC 9-30-5-12. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(g) A child whose driving privileges are suspended under this section is entitled to credit for any days during which the license was suspended under IC 31-37-5-7, if the child did not refuse to submit to a chemical test offered as provided under IC9-30-6-2 during the investigation of the delinquent act that would be an

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offense under IC 9-30-5 if committed by an adult.

(h) A period of suspension of driving privileges imposed under this section must be consecutive to any period of suspension imposed under IC 31-37-5-7. However, if the juvenile court finds in the sentencing order that it is in the best interest of society, the juvenile court may terminate all or any part of the remaining suspension under IC 31-37-5-7.

(i) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section."

Page 2, line 17, after "in" insert "IC 31-37-5-7 or".

Page 2, after line 24, begin a new line blocked left and insert:

"If a juvenile court recommends suspension of driving privileges under section 17.3 of this chapter, IC 9-30-6-12(b), IC 9-30-6-12(c), and IC 9-30-6-12(d) apply to the child's driving privileges.

SECTION 11. IC 9-24-18-5 IS REPEALED [EFFECTIVE JULY 1, 2000]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1051 as introduced.)

DVORAK, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1051 be amended to read as follows:

Page 4, between lines 38 and 39, begin a new paragraph and insert: "SECTION 5. IC 9-24-11-3, AS AMENDED BY P.L.225-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A license issued to an individual less than eighteen (18) years of age is a probationary license.

(b) An individual holds a probationary license subject to the following conditions:

(1) Except as provided in IC 31-37-3-1, the individual may not operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.

(2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers, **unless the passenger is the individual's sibling over the age of fifteen (15)**, unless another individual who:

(A) is at least twenty-one (21) years of age; and

(B) holds a valid operator's license issued under this article; is present in the front seat of the motor vehicle.

(3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(c) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

(d) A probationary license issued under this section:

(1) is valid for not more than four (4) years from the date the license is issued; and

(2) may not be renewed."

Renumber all SECTIONS consecutively.

(Reference is to HB1051 as printed January 25, 2000.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1051 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-14-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. As used in this chapter, "motor vehicle record" means a record that pertains to:

- (1) **an operator's a driver's** license;
- (2) a permit;
- (3) a motor vehicle registration;
- (4) a motor vehicle title; or
- (5) an identification document issued by the bureau.

SECTION 2. IC 9-14-3.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. As used in this chapter, "personal information" means information that identifies a person, including an individual's:

- (1) photograph or computerized image;
- (2) Social Security number;
- (3) driver's license **or** identification **document** number;
- (4) name;
- (5) address (but not the 5-digit zip code);
- (6) telephone number; or
- (7) medical or disability information.

The term does not include information about vehicular accidents, driving or equipment related violations, and operator's license or registration status.

SECTION 3. IC 9-14-3.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. Except as provided in sections 8, **through 10, and** 11 of this chapter;

- (1) **an officer or employee of** the bureau;
- (2) **an officer or employee of the bureau of motor vehicles commission;** or
- (3) an officer, an employee, or a contractor of the bureau **or the bureau of motor vehicles commission;**

may not knowingly disclose personal information about a person obtained by the bureau in connection with a motor vehicle record."

Page 1, delete lines 1 though 16.

Page 3, between lines 37 and 38, begin a new line blocked left and insert:

"However, this section shall not affect the use of anatomical gift information on a person's driver's license or identification

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document issued by the bureau, nor affect the administration of anatomical gift initiatives in the state".

Page 4, line 23, after "10(11)" insert ", **10(12)**".

Page 4, line 23, reset in roman "11".

Page 4, line 23, after "11" delete "10(12)".

Page 11, line 26 delete "IC 9-24-18-5 IS" and insert "THE FOLLOWING ARE".

Page 11, line 27, delete "." and insert ": IC 9-14-3.5-9; IC 9-24-18-5."

Renumber all SECTIONS consecutively.

(Reference is to HB 1051 as printed January 25, 2000.)

THOMPSON

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 1051, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 5.

Page 6, delete lines 1 through 3.

Page 6, line 14, delete "knowingly or intentionally".

Page 6, line 15, delete "while" and insert "**when the person knows or has reason to know that**".

Page 6, line 25, delete "knowingly or intentionally".

Page 6, line 26, delete "while" and insert "**when the person knows or has reason to know that**".

Page 6, line 30, delete "However, notwithstanding" and insert "**Notwithstanding**".

Page 6, line 33, delete "and not more than one (1) year".

Page 6, line 41, delete "A person who knowingly or intentionally operates a" and insert "**(a) A person who violates section 3 of this chapter commits a Class D felony if the operation results in bodily injury or serious bodily injury.**".

Page 6, delete line 42.

Page 7, delete lines 1 through 2.

Page 7, line 3, delete "However, the offense is", begin a new paragraph and insert:

"(b) A person who violates section 3 of this chapter commits".

Page 7, between lines 23 and 24, begin a new paragraph and insert:

"Sec. 9. Service by the bureau of motor vehicles of a notice of an order or an order suspending or revoking a person's driving privileges by mailing the notice or order by first class mail to the defendant under this chapter at the last address shown for the defendant in the records of the bureau of motor vehicles establishes a rebuttable presumption that the defendant knows or has reason to know that the person's driving privileges are suspended.

SECTION 2. IC 9-30-5-15, AS AMENDED BY P.L.266-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15. (a) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least five (5) days; or

(B) the person to perform at least thirty (30) days of community **restitution or** service; and

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(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has one (1) previous conviction of operating while intoxicated.

(b) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least ten (10) days; or

(B) the person to perform at least sixty (60) days of community **restitution or service**; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has at least two (2) previous convictions of operating while intoxicated.

(c) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence imposed under this section may not be suspended. The court may require that the person serve the term of imprisonment in an appropriate facility at whatever time or intervals (consecutive or intermittent) determined appropriate by the court. However:

(1) at least forty-eight (48) hours of the sentence must be served consecutively; and

(2) the entire sentence must be served within six (6) months after the date of sentencing.

(d) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a sentence imposed under this section."

Page 9, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 4. IC 11-12-1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter may include the following:

(1) Residential or work release programs.

(2) House arrest, home detention, and electronic monitoring programs.

(3) Community ~~service~~ **restitution or service** programs.

(4) Victim-offender reconciliation programs.

(5) Jail services programs.



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- (6) Jail work crews.
- (7) Community work crews.
- (8) Juvenile detention alternative programs.
- (9) Day reporting programs.
- (10) Other community corrections programs approved by the department.

(b) The community corrections board may also coordinate and operate educational, mental health, drug or alcohol abuse counseling, housing, as a part of any of these programs, or supervision services for persons described in section 2 of this chapter.

SECTION 5. IC 11-12-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. As used in this chapter, "community corrections program" means a community based program that provides preventive services, services to criminal or juvenile offenders, services to persons charged with a crime or an act of delinquency, services to persons diverted from the criminal or delinquency process, services to persons sentenced to imprisonment, or services to victims of crime or delinquency that may include the following:

- (1) Residential programs.
- (2) Work release programs.
- (3) House arrest, home detention, and electronic monitoring programs.
- (4) Community ~~service~~ restitution **or** ~~service~~ programs.
- (5) Victim-offender reconciliation programs.
- (6) Jail services programs.
- (7) Jail work crews.
- (8) Community work crews.
- (9) Juvenile detention alternative programs.
- (10) Study release programs.

SECTION 6. IC 11-14-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A transition officer to whom a boot camp graduate reports under section 1 of this chapter shall coordinate conditions of transition for the graduate with the probation department of the sentencing court, including the following:

- (1) Continued education.
- (2) Follow-up counseling.
- (3) Community **restitution or** service work.
- (4) Continuing drug and alcohol treatment intervention.
- (5) Activities designed to assist a boot camp graduate with reintegration into the community.



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(b) A transition officer shall schedule personal contact with the graduate.

SECTION 7. IC 12-13-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. The division shall administer the following:

- (1) The Interstate Compact on the Placement of Children (IC 12-17-8).
- (2) Any sexual offense services.
- (3) A child development associate scholarship program.
- (4) Any school age dependent care program.
- (5) Migrant day care services.
- (6) Any youth services programs.
- (7) Project safe place.
- (8) Prevention services to high risk youth.
- (9) Any commodities program.
- (10) The migrant nutrition program.
- (11) Any emergency shelter programs.
- (12) Any weatherization programs.
- (13) The Housing Assistance Act of 1937 (42 U.S.C. 1437).
- (14) The home visitation and social services program.
- (15) The educational consultants program.
- (16) Child abuse prevention programs.
- (17) Community **restitution or** service programs.
- (18) The crisis nursery program.
- (19) Energy assistance programs.
- (20) Domestic violence programs.
- (21) Social services programs.
- (22) Assistance to migrants and seasonal farmworkers.
- (23) The step ahead comprehensive early childhood grant program.
- (24) Any other program:
 - (A) designated by the general assembly; or
 - (B) administered by the federal government under grants consistent with the duties of the division."

Page 10, between lines 2 and 3, begin a new paragraph and insert:
 "SECTION 9. IC 15-5-1.1-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15.1. (a) The board may refuse to issue a registration or may issue a probationary registration to an applicant for registration as a veterinary technician under this chapter if:

- (1) the applicant has been disciplined by a licensing entity of another state or jurisdiction; and



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(2) the violation for which the applicant was disciplined has a direct bearing on the applicant's ability to competently practice as a veterinary technician in Indiana.

(b) Whenever issuing a probationary registration under this section, the board may impose any or a combination of the following conditions:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to those areas prescribed by the board.
- (3) Continue or renew professional education.
- (4) Engage in community **restitution or** service without compensation for a number of hours specified by the board.

(c) The board shall remove any limitations placed on a probationary registration issued under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

(d) This section does not apply to an individual who currently holds a registration certificate under this chapter.

SECTION 10. IC 25-1-9-9, AS AMENDED BY P.L.22-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to disciplinary sanctions under section 4, 5, 6, or 6.7 of this chapter or IC 25-1-5-4:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the board;
 - (C) continue or renew professional education under a preceptor, or as otherwise directed or approved by the board, until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
 - (D) perform or refrain from performing any acts, including community **restitution or** service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.
- (6) Assess a fine against the practitioner in an amount not to exceed one thousand dollars (\$1,000) for each violation listed in



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section 4 of this chapter, except for a finding of incompetency due to a physical or mental disability. When imposing a fine, the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the fine within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a fine.

(b) The board may withdraw or modify the probation under subsection (a)(5) if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.

SECTION 11. IC 25-1-9-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

- (1) the applicant has been disciplined by a licensing entity of another state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and
- (2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to those areas prescribed by the board.
- (3) Continue or renew professional education.
- (4) Engage in community **restitution or** service without compensation for a number of hours specified by the board.
- (5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

SECTION 12. IC 25-1-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

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- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the board;
 - (C) continue or renew professional education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
 - (D) perform or refrain from performing any acts, including community **restitution or** service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.
- (6) Assess a civil penalty against the practitioner for not more than one thousand dollars (\$1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.

(b) When imposing a civil penalty under subsection (a)(6), the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(c) The board may withdraw or modify the probation under subsection (a)(5) if the board finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

SECTION 13. IC 25-22.5-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.5. (a) The board may:

- (1) refuse to issue a license;
- (2) issue an unlimited license; or
- (3) issue a probationary license to an applicant for licensure by examination or endorsement;

if the applicant has had a license revoked under this chapter and is applying for a new license after the expiration of the period prescribed by IC 25-1-9-12.

(b) When issuing a probationary license under this section, the board may require the individual holding the license to perform any of

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the following acts as a condition for the issuance of a probationary license:

- (1) Submit a regular report to the board concerning matters that are the basis of probation.
- (2) Limit the practice of the individual to the areas prescribed by the board.
- (3) Continue or renew the individual's professional education.
- (4) Perform or refrain from performing acts, as the board considers appropriate to the public interest or the rehabilitation of the individual.
- (5) Engage in community **restitution or** service without compensation for a number of hours specified by the board.
- (6) Any combination of these conditions.

(c) If the board determines following a hearing that the deficiency requiring disciplinary action concerning the individual has been remedied, the board shall remove any limitation placed on the individual's license under subsection (b).

SECTION 14. IC 25-23.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) If the committee issues a probationary certificate under section 7 of this chapter, the committee may require the person who holds the certificate to perform one (1) or more of the following conditions:

- (1) Report regularly to the committee upon a matter that is the basis for the probation.
- (2) Limit practice to areas prescribed by the committee.
- (3) Continue or renew professional education.
- (4) Engage in community **restitution or** service without compensation for a number of hours specified by the committee.

(b) The committee shall remove a limitation placed on a probationary certificate if after a hearing the committee finds that the deficiency that caused the limitation has been remedied.

SECTION 15. IC 25-27.5-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) If the committee issues a probationary certificate under section 2 of this chapter, the committee may require the individual who holds the certificate to meet at least one (1) of the following conditions:

- (1) Report regularly to the committee upon a matter that is the basis for the probation.
- (2) Limit practice to areas prescribed by the committee.
- (3) Continue or renew professional education.
- (4) Engage in community **restitution or** service without compensation for a number of hours specified by the committee.

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(b) The committee shall remove a limitation placed on a probationary certificate if after a hearing the committee finds that the deficiency that caused the limitation has been remedied.

SECTION 16. IC 31-14-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court may find the party in contempt of court.

(b) The court may order a party who is found in contempt of court under this section to perform community **restitution or** service without compensation in a manner specified by the court.

SECTION 17. IC 31-14-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. A court that finds a violation without justifiable cause by a custodial parent of an injunction or a temporary restraining order issued under this chapter (or IC 31-6-6.1-12.1 before its repeal):

- (1) shall find the custodial parent in contempt of court;
- (2) shall order the exercise of visitation that was not exercised due to the violation under this section (or IC 31-6-6.1-12.1(e) before its repeal) at a time the court considers compatible with the schedules of the noncustodial parent and the child;
- (3) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and
- (4) may order the custodial parent to perform community **restitution or** service without compensation in a manner specified by the court.

SECTION 18. IC 31-16-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court may find the party in contempt of court. The court may order a party who is found in contempt of court under this section to perform community **restitution or** service without compensation in a manner specified by the court.

SECTION 19. IC 31-17-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. A court that finds an intentional violation without justifiable cause by a custodial parent of an injunction or a temporary restraining order issued under this chapter (or IC 31-1-11.5-26 before its repeal):

- (1) shall find the custodial parent in contempt of court;
- (2) shall order the exercise of visitation that was not exercised due to the violation under this section at a time the court considers compatible with the schedules of the noncustodial parent and the



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child;

(3) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and

(4) may order the custodial parent to perform community **restitution or** service without compensation in a manner specified by the court."

Page 10, line 23, delete "recordkeeping" and insert "**record keeping**".

Page 10, after line 42, begin a new paragraph and insert:

"SECTION 21. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the court shall after a determination under ~~IC 5-2-12-4(2)~~ **IC 5-2-12-4(3)** require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 5-2-12-4(1) if committed by an adult to register with a local law enforcement authority under IC 5-2-12.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community **restitution or** service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter."

Page 11, line 25, delete "recordkeeping" and insert "**record**

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keeping".

Page 12, between lines 32 and 33, begin a new paragraph and insert:
 "SECTION 24. IC 35-38-2.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. An order for home detention of an offender under section 5 of this chapter must include the following:

- (1) A requirement that the offender be confined to the offender's home at all times except when the offender is:
 - (A) working at employment approved by the court or traveling to or from approved employment;
 - (B) unemployed and seeking employment approved for the offender by the court;
 - (C) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the offender by the court;
 - (D) attending an educational institution or a program approved for the offender by the court;
 - (E) attending a regularly scheduled religious service at a place of worship; or
 - (F) participating in a community work release or community **restitution or** service program approved for the offender by the court.
- (2) Notice to the offender that violation of the order for home detention may subject the offender to prosecution for the crime of escape under IC 35-44-3-5.
- (3) A requirement that the offender abide by a schedule prepared by the probation department, or by a community corrections program ordered to provide supervision of the offender's home detention, specifically setting forth the times when the offender may be absent from the offender's home and the locations the offender is allowed to be during the scheduled absences.
- (4) A requirement that the offender is not to commit another crime during the period of home detention ordered by the court.
- (5) A requirement that the offender obtain approval from the probation department or from a community corrections program ordered to provide supervision of the offender's home detention before the offender changes residence or the schedule described in subdivision (3).
- (6) A requirement that the offender maintain:
 - (A) a working telephone in the offender's home; and
 - (B) if ordered by the court, a monitoring device in the offender's home or on the offender's person, or both.

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(7) A requirement that the offender pay a home detention fee set by the court in addition to the probation user's fee required under IC 35-38-2-1 or IC 31-40. However, the fee set under this subdivision may not exceed the maximum fee specified by the department of correction under IC 11-12-2-12.

(8) A requirement that the offender abide by other conditions of probation set by the court under IC 35-38-2-2.3.

SECTION 25. IC 35-41-1-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 4.6. "Community restitution or service" means performance of services directly for a:**

- (1) victim;**
- (2) nonprofit entity; or**
- (3) governmental entity;**

without compensation, including graffiti abatement, park maintenance, and other community service activities. The term does not include the reimbursement under IC 35-50-5-3 or another law of damages or expenses incurred by a victim or another person as the result of a violation of law.

SECTION 26. IC 36-10-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 4. A unit may establish, aid, maintain, and operate libraries and museums, cultural, historical, and scientific facilities and programs, and community restitution or service facilities and programs."**

Page 12, after line 34, begin a new paragraph and insert:

"SECTION 28. [EFFECTIVE JULY 1, 2000] The change of references in the Indiana Code from community service to community restitution or service by this act shall not be construed to:

- (1) release a person from a court order issued before July 1, 2000, requiring the person to perform community service; or**
- (2) limit the power of an entity to operate any program as a community restitution program after June 30, 2000, that was operated before July 1, 2000, as a community service program."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1051 as reprinted January 28, 2000.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 1.

EH 1051—LS 6168/DI 98+



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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1051 be amended to read as follows:

Page 2, line 10, delete "Notwithstanding IC 35-50-3-2, and except".

Page 2, delete lines 11 through 19.

Page 2, line 20, delete "5" and insert "4".

Page 2, line 26, delete "6" and insert "5".

Page 2, line 34, delete "7" and insert "6".

Page 2, line 41, delete "8" and insert "7".

Page 3, line 2, delete "9" and insert "8".

(Reference is to EHB 1051 as printed February 25, 2000.)

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