March 11, 2005

ENGROSSED
HOUSE BILL No. 1398

DIGEST OF HB 1398 (Updated March 9, 2005 12:20 pm - DI 106)

Citations Affected: Numerous provisions throughout the Indiana code.

Synopsis: Technical corrections. Corrects various technical problems in the Indiana Code and in noncode provisions.

Effective: Upon passage; July 1, 2005.

Foley, Behning, Kuzman

(SENATE SPONSORS — LANDSKE, KENLEY)

January 13, 2005, read first time and referred to Committee on Judiciary.
February 14, 2005, amended, reported — Do Pass.
February 17, 2005, read second time, ordered engrossed.
February 18, 2005, engrossed.
February 21, 2005, read third time, passed. Yeas 94, nays 2.

SENATE ACTION

February 24, 2005, read first time and referred to Committee on Judiciary.
March 10, 2005, reported favorably — Do Pass.

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March 11, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1398

A BILL FOR AN ACT to amend the Indiana Code concerning technical corrections.

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

SECTION 1. IC 1-2-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A state flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed using the same method provided for the retiring and disposing of the flag of the United States under ~~36 U.S.C. 176.~~ **4 U.S.C. 8(k).**

SECTION 2. IC 3-8-1-33, AS AMENDED BY P.L.14-2004, SECTION 52, AND AS AMENDED BY P.L.98-2004, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) A candidate for an office listed in subsection (b) must file a statement of economic interests.

(b) Whenever a candidate for any of the following offices is also required to file a declaration of candidacy or is nominated by petition, the candidate shall file a statement of economic interests before filing the declaration of candidacy or declaration of intent to be a write-in candidate, before the petition of nomination is filed, before the

certificate of nomination is filed, or before being appointed to fill a candidate vacancy under IC 3-13-1 or IC 3-13-2:

(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, ~~*clerk of the supreme court,*~~ judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with IC 33-23-11-14 and IC 33-23-11-15.

SECTION 3. IC 3-11-1.5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. (a) This section applies to a county that has a precinct that crosses a boundary in violation of section ~~4(5),~~ **4(4),** ~~4(6),~~ **4(5),** or ~~4(7)~~ **4(6)** of this chapter.

(b) Notwithstanding section 25 of this chapter, if the county does not issue a precinct establishment order that establishes precincts in compliance with section ~~4(5),~~ **4(4),** ~~4(6),~~ **4(5),** and ~~4(7)~~ **4(6)** of this chapter by the January 31 following the last effective date described in section 25(2) of this chapter, the commission may issue an order establishing precincts as provided under subsection (c).

(c) An order issued by the commission under this section must comply with section ~~4(5),~~ **4(4),** ~~4(6),~~ **4(5),** and ~~4(7)~~ **4(6)** of this chapter.

(d) The co-directors shall send a copy of the commission's order to the office.

SECTION 4. IC 3-11-2-12, AS AMENDED BY P.L.14-2004, SECTION 98, AND AS AMENDED BY P.L.98-2004, SECTION 37, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:

(A) President and Vice President of the United States.

(B) United States Senator.

(C) Governor and lieutenant governor.

(D) Secretary of state.

(E) Auditor of state.

(F) Treasurer of state.

(G) Attorney general.

(H) Superintendent of public instruction.

~~*(I) Clerk of the supreme court.*~~

~~*(J)*~~ *(I)* United States Representative.

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(2) Legislative offices:
(A) State senator.
(B) State representative.
(3) Circuit offices and county judicial offices:
(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
(E) Prosecuting attorney.
(F) Clerk of the circuit court.
(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County council member.
(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) Judge of the small claims court.
(E) Constable of the small claims court.
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

SECTION 5. IC 3-13-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The chairman or

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chairmen filling a candidate vacancy under this chapter shall immediately file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

(1) The name of each candidate as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) The residence address of each candidate.

(b) The certificate shall be filed with:

(1) the election division for:

(A) one (1) or more chairmen acting under section 2, 3, 4, or 5(b) of this chapter; or

(B) a committee acting under section 5(b) of this chapter to fill a candidate vacancy for the office of judge of a circuit, superior, probate, county, or small claims court or prosecuting attorney; or

(2) the circuit court clerk of the county in which the greatest percentage of the population of the election district is located, for a chairman acting under section 5(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) The certificate required by ~~section~~ **subsection** (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidate.

SECTION 6. IC 4-1.5-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Subject to section 4 of this chapter, ~~voting~~ members of the board appointed by the governor serve for terms of four (4) years. Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. Members are eligible for reappointment.

SECTION 7. IC 4-3-14-4, AS AMENDED BY P.L.28-2004, SECTION 19, AND AS AMENDED BY P.L.96-2004, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by:

(A) coordinating the activities of all parties having a role in the

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state's economic development through evaluating, overseeing, and appraising those activities on an ongoing basis;

(B) overseeing the implementation of the state's economic development plan and monitoring the updates of that plan; and

(C) educating and assisting all parties involved in improving the long range vitality of the state's economy;

(2) the board must include:

(A) the governor;

(B) the lieutenant governor;

(C) the chief operating officer of the corporation;

(D) the chief operating officer of the corporation for Indiana's international future; and

(E) additional persons appointed by the governor, who are actively engaged in Indiana in private enterprise, organized labor, state or local governmental agencies, and education, and who represent the diverse economic and regional interests throughout Indiana;

(3) the governor shall serve as chairman of the board of the corporation, and the lieutenant governor shall serve as the chief executive officer of the corporation;

(4) the governor shall appoint as vice chairman of the board a member of the board engaged in private enterprise;

(5) the lieutenant governor shall be responsible as chief executive officer for overseeing implementation of the state's economic development plan as articulated by the corporation and shall oversee the activities of the corporation's chief operating officer;

(6) the governor may appoint an executive committee composed of members of the board (size and structure of the executive committee shall be set by the articles and bylaws of the corporation);

(7) the corporation may receive funds from any source and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;

(8) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the governor;

(9) the corporation shall submit an annual report to the governor and to the ~~Indiana~~ general assembly on or before the first day of November for each year;

(10) *the annual report submitted under subdivision (9) to the general assembly must be in an electronic format under IC 5-14-6;*

(11) the corporation shall conduct an annual public hearing to

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receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

~~(11)~~ *(12)* the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) The corporation may perform other acts and things necessary, convenient, or expedient to carry out the purposes identified in this section, and it has all rights, powers, and privileges granted to corporations by IC 23-17 and by common law.

(c) The corporation shall:

(1) approve and administer loans from the microenterprise partnership program fund established under IC 4-3-13-9;

(2) establish and administer the nontraditional entrepreneur program under IC 4-3-13;

(3) establish and administer the small and minority business **financial** *assistance program under IC 4-3-16; and*

(4) establish and administer the microenterprise partnership program under IC 4-4-32.4.

SECTION 8. IC 4-4-3-8, AS AMENDED BY P.L.28-2004, SECTION 23, AND AS AMENDED BY P.L.73-2004, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The department shall develop and promote programs designed to make the best use of the resources of the state so as to assure a balanced economy and continuing economic growth for Indiana and for those purposes may do the following:

(1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of the resources of the state.

(2) Receive and expend all funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the department, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The department:

(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with their terms; and

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(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Direct that assistance, information, and advice regarding the duties and functions of the department be given the department by any officer, agent, or employee of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the department on a temporary basis, or may direct any division or agency under the department's or agency's supervision and control to make any special study or survey requested by the director.

(b) The department shall perform the following duties:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities within Indiana and to encourage new industrial, commercial, and business locations within Indiana.

(4) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations within Indiana. The director, with the approval of the governor, may establish foreign offices to assist in this function.

(5) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion, establishment of new businesses, or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(6) Assist in community economic development planning and the implementation of programs designed to further this development.

(7) Assist in the development and promotion of Indiana's tourist resources, facilities, attractions, and activities.

(8) Assist in the promotion and marketing of Indiana's agricultural products, and provide staff assistance to the director in fulfilling

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the director's responsibilities as commissioner of agriculture.

(9) Perform the following energy related functions:

(A) Assist in the development and promotion of alternative energy resources, including Indiana coal, oil shale, hydropower, solar, wind, geothermal, and biomass resources.

(B) Encourage the conservation and efficient use of energy, including energy use in commercial, industrial, residential, governmental, agricultural, transportation, recreational, and educational sectors.

(C) Assist in energy emergency preparedness.

(D) ~~*Not later than January 1, 1994,*~~ Establish:

(i) specific goals for increased energy efficiency in the operations of state government and for the use of alternative fuels in vehicles owned by the state; and

(ii) guidelines for achieving the goals established under item (i).

(E) Establish procedures for state agencies to use in reporting to the department on energy issues.

(F) Carry out studies, research projects, and other activities required to:

(i) assess the nature and extent of energy resources required to meet the needs of the state, including coal and other fossil fuels, alcohol fuels produced from agricultural and forest products and resources, renewable energy, and other energy resources;

(ii) promote cooperation among government, utilities, industry, institutions of higher education, consumers, and all other parties interested in energy and recycling market development issues; and

(iii) promote the dissemination of information concerning energy and recycling market development issues.

(10) Implement any federal program delegated to the state to effectuate the purposes of this chapter.

(11) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance programs available through government agencies and private sources.

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(12) Assist the Indiana commission for agriculture and rural development in performing its functions under IC 4-4-22.

(13) Develop and promote markets for the following recyclable items:

(A) Aluminum containers.

(B) Corrugated paper.

(C) Glass containers.

(D) Magazines.

(E) Steel containers.

(F) Newspapers.

(G) Office waste paper.

(H) Plastic containers.

(I) Foam polystyrene packaging.

(J) Containers for carbonated or malt beverages that are primarily made of a combination of steel and aluminum.

(14) Produce an annual recycled products guide and at least one (1) time each year distribute the guide to the following:

(A) State agencies.

(B) The judicial department of state government.

(C) The legislative department of state government.

(D) State educational institutions (as defined in IC 20-12-0.5-1).

(E) Political subdivisions (as defined in IC 36-1-2-13).

(F) Bodies corporate and politic created by statute.

A recycled products guide distributed under this subdivision must include a description of supplies and other products that contain recycled material and information concerning the availability of the supplies and products.

(15) Beginning July 1, 2005, the department shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the department using funds appropriated under IC 4-4-3-23(e). The department shall adopt rules under IC 4-22-2 governing certification procedures and counseling requirements for nonprofit home ownership counselors. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the department in implementing this subdivision.

(c) The department shall submit a report *in an electronic format under IC 5-14-6* to the general assembly before October 1 of each year concerning the availability of and location of markets for recycled products in Indiana. The report must include the following:

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(1) A priority listing of recyclable materials to be targeted for market development. The listing must be based on an examination of the need and opportunities for the marketing of the following:
(A) Paper.
(B) Glass.
(C) Aluminum containers.
(D) Steel containers.
(E) Bi-metal containers.
(F) Glass containers.
(G) Plastic containers.
(H) Landscape waste.
(I) Construction materials.
(J) Waste oil.
(K) Waste tires.
(L) Coal combustion wastes.
(M) Other materials.
(2) A presentation of a market development strategy that:
(A) considers the specific material marketing needs of Indiana; and
(B) makes recommendations for legislative action.
(3) An analysis that examines the cost and effectiveness of future market development options.

SECTION 9. IC 4-22-2-37.1, AS AMENDED BY P.L.1-2004, SECTION 1, AND AS AMENDED BY P.L.23-2004, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:
(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.
(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.
(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.
(6) A rule required under IC 24-4.5-1-106 that is adopted by the

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department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

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(23) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(24) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(25) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(26) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(27) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(28) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by

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law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), *and except as provided in subsection (j),* a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), *(a)(25), (a)(26), or (a)(28),* the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. *Subject to subsection (j), a rule adopted under subsection (a)(25), (a)(26), or (a)(28) may be extended for an unlimited number of extension periods.* Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(25) or (a)(26) expires not later than January 1, 2006.

SECTION 10. IC 4-23-29-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this chapter, for an individual who is at least five (5) years of age, "developmental disability" means a severe, chronic disability that:

(1) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) is manifested before the individual is twenty-two (22) years of age;

(3) is likely to continue indefinitely;

(4) results in substantial functional limitation in three (3) or more areas of major life activity; and

(5) reflects the individual's need for special, interdisciplinary services, supports, or assistance that ~~are~~ **is** of lifelong or extended duration and ~~are~~ **is** individually planned and coordinated.

(b) As used in this chapter, for an individual less than five (5) years of age, "developmental disability" means:

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(1) substantial developmental delay; or

(2) specific congenital or acquired conditions;

with high probability of resulting in a developmental disability described in subsection (a) if services are not provided.

SECTION 11. IC 4-33-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars ($33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund. In each state fiscal year beginning after June 30, 2003, the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund. However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the property tax replacement fund in the immediately following month.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state

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gaming fund under this chapter as follows:

(1) Thirty-seven and one half percent (37.5%) shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(2) Thirty-seven and one-half percent (37.5%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars ($20,000,000), the amount described in this subdivision shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(3) Five percent (5%) shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Ten percent (10%) shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(5) Ten percent (10%) shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in

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the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(c) For each city and county receiving money under subsection ~~(a)(2)(A) or (a)(2)(C),~~ **(a)(2),** the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

(1) exceeds a particular city or county's base year revenue; and

(2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars ($250,000,000):

(1) Surplus lottery revenues under IC 4-30-17-3.

(2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.

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(3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection (h), the county auditor shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(f) Money received by a city, town, or county under subsection (e) or (h) may be used for any of the following purposes:

(1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5);

(2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas or debt repayment.

(3) To fund sewer and water projects, including storm water management projects.

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

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(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of 2003 and each year thereafter, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to the difference between the entity's base year revenue (as determined under IC 4-33-12-6) and the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6.

(h) This subsection applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection ~~(d)~~ **(e)** as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

SECTION 12. IC 5-1-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The contract entered into by the board of commissioners of any county and any such bondholder shall be signed by the parties to such contract, shall be attested on behalf of the county by the county auditor, and shall stipulate and agree that the board of commissioners of the county will pay all interest on such matured bond to the date of the maturity thereof, and that a new bond (referred to in this chapter as a redemption bond) in the same amount as the matured bond, will be issued to pay and retire such matured bond, and that such redemption bond will be and continue to be a valid and binding obligation of the county and that during the period fixed in the contract not exceeding ten (10) years the board of commissioners will pay annually to the owner of such redemption bond, one-tenth (1/10) of the principal amount of such redemption bond and, in addition thereto, will pay semiannually all interest which shall have accrued thereon to the date when such payment is to be made. The date on which such partial payments of the principal of such

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bond will be made shall be fixed and prescribed in such contract and may be on June 1 or December 1 of the year next succeeding the year in which such contract is executed and signed and June 1 or December 1 of each and every year thereafter until paid. The interest accrued on such bond shall be paid semiannually on June 1 and December 1, beginning on the same date as the first partial payment on such bond. The board of commissioners shall further agree to levy a tax on the taxable property of such county in an amount sufficient to make the payments on such redemption bonds as they fall due, together with all interest which shall have accrued thereon. Any bondholder who elects to avail himself **or herself** of the provisions of this chapter shall agree that in consideration of the privilege hereby afforded ~~he~~ **the bondholder** will not maintain or attempt to maintain a suit for the collection or the enforcement of the lien of any such bond, other than in accordance with the remedies afforded by the provisions of this chapter. The form of the contract herein contemplated shall be prescribed by the state board of accounts with the approval of the attorney general. At the time when the contract is executed and the redemption bond is issued, the matured bond shall be surrendered to the county auditor and shall be canceled by writing across the face of the matured bond the words "Canceled by issuing to _____ a redemption bond in the same principal sum as this bond, due and payable on the _____ day of _____, ~~19____."~~ **20____.".**

SECTION 13. IC 5-2-1-9, AS AMENDED BY P.L.62-2004, SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer,

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and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement

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officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter,* or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training

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course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. *Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.* In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having ~~no~~ **not** more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

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(5) Department policy making.
(6) Firearm policies.
(7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city; and
(2) the police chief of any town having a metropolitan police department.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

(1) before January 1, 1994, is not required; or
(2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 14. IC 5-2-1-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.5. (a) The board may adopt rules under IC 4-22-2 to establish a southwest Indiana law enforcement training academy.

(b) If the board adopts rules under subsection (a) to establish a southwest Indiana law enforcement training academy, the board shall in accordance with IC 4-22-2 adopt rules establishing minimum standards for the southwest Indiana law enforcement training academy.

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(c) The southwest Indiana law enforcement training academy may provide:

(1) basic training to a law enforcement officer who is not accepted by the law enforcement academy for the next basic training course because the academy does not have a space for the officer in the next basic training course;

(2) pre-basic courses described in section 9(f) of this chapter;

(3) inservice training described in section 9(g) of this chapter; and

(4) other law enforcement training approved by the board;

if the training academy meets or exceeds the minimum standards established under subsection (b) by the board.

(d) The southwest Indiana law enforcement training academy established under this section may receive funding only from the following:

(1) A local unit of government (as defined in IC 14-22-31.5-1).

(2) A unit of a fraternal order or a similar association.

(3) Charitable contributions.

(4) Federal grants.

SECTION 15. IC 5-9-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsection (b) or (c), an officeholder who elects to take the leave of absence described in section 6 of this chapter shall give written notice that the officeholder is taking a leave of absence for military service to the person or entity designated in IC 5-8-3.5-1 to receive a resignation for the office the officeholder holds.

(b) An officeholder who is:

(1) a justice of the supreme court, a judge of the court of appeals, or a judge of the tax court; or

(2) a judge of a circuit, city, county, probate, or superior court;

shall give the written notice required by subsection (a) to the clerk of the supreme court.

(c) An officeholder who holds a school board office shall give the written notice required by subsection (a) to the person or entity designated in IC 20-3, IC 20-4, or IC 20-5 to receive a resignation for the office the officeholder holds.

(d) The written notice required by subsection (a) must state that the officeholder is taking a leave of absence because the officeholder:

(1) has been called for active duty in: ~~the:~~

(A) **the** armed forces of the United States; or

(B) the national guard; and

(2) will be temporarily unable to perform the duties of the officeholder's office.

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SECTION 16. IC 5-9-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A leave of absence under this chapter begins on the date the officeholder enters active duty and ends on the earliest of:

(1) the date of the officeholder's death;

(2) the thirtieth day after the date of the discharge or release of the officeholder from active duty; or

(3) the date the officeholder provides the written notice required by subsection (b).

(b) An officeholder returning from a leave of absence under this chapter shall give written notice that the officeholder's leave of absence has ended to the person or entity to which the officeholder provided notice under section 7 of this chapter.

(c) The person or entity that receives the written notice under subsection (b) shall, not later than seventy-two (72) hours after receipt of the officeholder's notice, give written notice that the officeholder's leave of absence has ended to: ~~the:~~

(1) **the** person temporarily appointed to the officeholder's office; and

(2) any person or entity that received the written notice of the leave of absence under section 9(b) of this chapter.

(d) On the date an officeholder's leave of absence ends, as determined under subsection (a), the officeholder shall resume the duties of the officeholder's office for the remainder of the term for which the officeholder was elected.

SECTION 17. IC 5-10-8-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.2. (a) As used in this section, "dependent" means a natural child, stepchild, or adopted child of a public safety employee who:

(1) is less than eighteen (18) years of age;

(2) is eighteen (18) years of age or older and physically or mentally disabled (using disability guidelines established by the Social Security Administration); or

(3) is at least eighteen (18) and less than twenty-three (23) years of age and is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university.

(b) As used in this section, "public safety employee" means a full-time firefighter, police officer, county police officer, or sheriff.

(c) This section applies only to local unit public employers and their public safety employees.

(d) A local unit public employer may provide programs of group

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health insurance for its active and retired public safety employees through one (1) of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's active and retired public safety employees by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees shall also provide a group health insurance program to the following persons:

(1) Retired public safety employees.

(2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, or IC 36-8-10.

(3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A retired or disabled public safety employee who is eligible for group health insurance coverage under subsection (g)(1) or (g)(2):

(1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance program at the time the person retires or becomes disabled;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the person retires or begins receiving disability benefits; and

(3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

(i) Except as provided in IC 36-8-6-9.7(f), IC 36-8-6-10.1(h),

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IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), ~~IC 38-8-8-14.1(h),~~ **IC 36-8-8-14.1(h),** and IC 36-8-10-16.5 for a surviving spouse or dependent of a public safety employee who dies in the line of duty, a surviving spouse or dependent who is eligible for group health insurance under subsection (g)(3):

(1) may elect to continue coverage under the group health insurance program after the death of the public safety employee;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the death of the public safety employee; and

(3) must pay the amount that the public safety employee would have been required to pay under this section for coverage selected by the surviving spouse or dependent (however, the employer may elect to pay any part of the surviving spouse's or dependents' premiums).

(j) A retired or disabled public safety employee's eligibility for group health insurance under this section ends on the earlier of the following:

(1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving spouse through employment.

(l) A dependent's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in subsection (a).

(4) When health insurance becomes available to the dependent through employment.

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(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 18. IC 5-14-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~As used in~~ **(a) The definitions set forth in this section apply throughout** this chapter.

(b) "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

(c) "Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

(d) "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

(e) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does

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not result in the permanent electronic storage of the information.

(f) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(g) "Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

(h) "Investigatory record" means information compiled in the course of the investigation of a crime.

(i) "Patient" has the meaning set out in IC 16-18-2-272(d).

(j) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(k) "Provider" has the meaning set out in IC 16-18-2-295(a) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

(l) "Public agency" means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the

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executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission **established by IC 4-30-3-1,** including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(m) "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

(n) "Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

(o) "Trade secret" has the meaning set forth in IC 24-2-3-2.

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(p) "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation. ~~and~~ **The term** includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 19. IC 5-22-15-20.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.5. (a) This section applies only to a contract awarded by a state agency.

(b) As used in this section, "Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

(4) A business that makes significant capital investments in Indiana.

(5) A business that has a substantial positive economic impact on Indiana as defined by criteria developed under subsection (c).

(c) The Indiana department of administration shall consult with the department of commerce in developing criteria for determining whether a business is an Indiana business under ~~subsection (a).~~ **subsection (b).** The Indiana department of administration may consult with the department of commerce to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(d) There are the following price preferences for supplies purchased from an Indiana business:

(1) Five percent (5%) for a purchase expected by the state agency to be less than five hundred thousand dollars ($500,000).

(2) Three percent (3%) for a purchase expected by the state agency to be at least five hundred thousand dollars ($500,000) but less than one million dollars ($1,000,000).

(3) One percent (1%) for a purchase expected by the state agency to be at least one million dollars ($1,000,000).

(e) Notwithstanding subsection (d), a state agency shall award a

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contract to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if:

(1) the offeror is an Indiana business; or

(2) the offeror is a business from a state bordering Indiana and the business's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana businesses.

(f) A business that wants to claim a preference provided under this section must do all of the following:

(1) State in the business's bid that the business claims the preference provided by this section.

(2) Provide the following information to the department:

(A) The location of the business's principal place of business. If the business claims the preference as an Indiana business described in subsection (b)(1), a statement explaining the reasons the business considers the location named as the business's principal place of business.

(B) The amount of the business's total payroll and the amount of the business's payroll paid to Indiana residents.

(C) The number of the business's employees and the number of the business's employees who are Indiana residents.

(D) If the business claims the preference as an Indiana business described in subsection (b)(4), a description of the capital investments made in Indiana and a statement of the amount of those capital investments.

(E) If the business claims the preference as an Indiana business described in subsection (b)(5), a description of the substantial positive economic impact the business has on Indiana.

(g) This section expires July 1, 2009.

SECTION 20. IC 6-1.1-5.5-4.7, AS AMENDED BY P.L.1-2004, SECTION 10, AND AS AMENDED BY P.L.23-2004, SECTION 11, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. (a) The assessment training fund is established for the purpose of receiving fees deposited under section 4 of this chapter. Money in *the* fund may be used by the department of local government finance to cover expenses incurred in the development and administration of programs for the training of assessment officials and employees of the department, including the examination and certification program required by IC 6-1.1-35.5. The fund shall be administered by the treasurer of state.

(b) The expenses of administering the fund shall be paid from

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money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 21. IC 6-1.1-22.5-10, AS ADDED BY P.L.1-2004, SECTION 37, AND AS ADDED BY P.L.23-2004, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If a provisional statement is used, the county treasurer shall give ~~not~~ notice of tax rates required under IC 6-1.1-22-4 for the reconciling statement.

SECTION 22. IC 6-1.1-28-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. Before performing any of ~~his~~ **the member's** duties, each member of the county property tax assessment board of appeals shall take and subscribe to the following oath:

STATE OF INDIANA)
) SS:
COUNTY OF _____)

I, _____, do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Indiana, and that I will faithfully and impartially discharge my duty under the law as a member of the Property Tax Assessment Board of Appeals for said County; that I will, according to my best knowledge and judgment, assess, and review the assessment of all the property of said county, and I will in no case assess any property at more or less than is provided by law, so help me God.

_____
Member of The Board

Subscribed and sworn to before me this ___ day of _____, ~~19___.~~ **20___.**

_____
County Auditor

This oath shall be administered by and filed with the county auditor.

SECTION 23. IC 6-2.5-4-11, AS AMENDED BY P.L.81-2004, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A person is a retail merchant making a retail transaction when the person furnishes cable television or radio service or satellite television or radio service that terminates in Indiana.

(b) Notwithstanding subsection (a), a person is not a retail merchant

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making a retail transaction when the person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of cable television or radio service or satellite ~~or radio~~ television **or radio** service.

SECTION 24. IC 6-3-2-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's adjusted income derived from sources within Indiana is determined under section 2 of this chapter for the same taxable year during which each loss was incurred.

(3) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, or when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident person, for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating

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loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

(h) An Indiana net operating loss deduction determined under this section shall be allowed notwithstanding the fact that in the year the taxpayer incurred the net operating loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(1) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(2) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

(i) In the case of a life insurance company that claims an operations loss deduction under Section 810 of the Internal Revenue Code, this section shall be applied by:

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(1) substituting the corresponding provisions of Section 810 of the Internal Revenue Code in place of references to Section 172 of the Internal Revenue **Code;** and

(2) substituting life insurance company taxable income (as defined in Section 801 the Internal Revenue Code) in place of references to taxable income (as defined in Section 63 of the Internal Revenue Code).

(j) For purposes of an amended return filed to carry back an Indiana net operating loss:

(1) the term "due date of the return", as used in IC 6-8.1-9-1(a)(1), means the due date of the return for the taxable year in which the net operating loss was incurred; and

(2) the term "date the payment was due", as used in IC 6-8.1-9-2(c), means the due date of the return for the taxable year in which the net operating loss was incurred.

SECTION 25. IC 6-8.1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f) and (g), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

(1) The due date of the return.

(2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) When the department receives a claim for refund, the department shall consider the claim for refund and may hold a hearing on the claim for refund to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's

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decision, the person may appeal the decision, regardless of whether or not he protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal suit, if:

(1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;

(2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or

(3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

(d) The tax court shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels is equitable. The court may enjoin the collection of any of the listed taxes under IC 33-26-6-2. The court may also allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(e) With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

(f) If a taxpayer's federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

(1) the date determined under subsection (a); or

(2) the date that is six (6) months after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

(g) If an agreement to extend the assessment time period is entered into under ~~IC 6-8.1-5-2(e)~~ **IC 6-8.1-5-2(f),** the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

SECTION 26. IC 6-8.1-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) If a person fails to file a return for any of the listed taxes, fails to pay the full amount of tax shown on his return by the due date for the return or the payment, or incurs a deficiency upon a determination by the department, the person is subject to interest on the nonpayment.

(b) The interest for a failure described in subsection (a) is the adjusted rate established by the commissioner under subsection (c),

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from the due date for payment. The interest applies to:

(1) the full amount of the unpaid tax due if the person failed to file the return;

(2) the amount of the tax that is not paid, if the person filed the return but failed to pay the full amount of tax shown on the return; or

(3) the amount of the deficiency.

(c) The commissioner shall establish an adjusted rate of interest for a failure described in subsection (a) and for an excess tax payment on or before November 1 of each year. For purposes of subsection (b), the adjusted rate of interest shall be the percentage rounded to the nearest whole number that equals two (2) percentage points above the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as published in the auditor of state's comprehensive annual financial report. For purposes of IC 6-8.1-9-2(c), the adjusted rate of interest for an excess tax payment is the percentage rounded to the nearest whole number that equals the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as published in the auditor of state's comprehensive annual financial report. The adjusted rates of interest established under this subsection shall take effect on January 1 of the immediately succeeding year.

(d) For purposes of this section, the filing of a substantially blank or unsigned return does not constitute a return.

(e) ~~Except as provided by IC 6-8.1-5-2(e)(2),~~ The department may not waive the interest imposed under this section.

(f) Subsections (a) through (c) do not apply to a motor carrier fuel tax return.

SECTION 27. IC 8-1-19.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The 211 services account is established in the state general fund to make 211 services available throughout Indiana. The account shall be administered by the commission.

(b) The account consists of the following:

(1) Money appropriated to the account by the general assembly.

(2) Funds received from the federal government for the support of 211 services in Indiana.

(3) Investment earnings, including interest, on money in the account.

(4) Money from any other source, including gifts and grants.

(c) Money in the account is continuously appropriated for the purposes of this section.

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(d) The commission shall annually prepare a plan for the expenditure of the money in the account. The plan must be reviewed by the state budget committee before the commission may make expenditures from the fund.

(e) Money in the account may be spent for the following purposes:

(1) The creation of a structure for a statewide 211 resources data base that:

(A) meets the Alliance for Information Referral Systems standards for information and referral systems data bases; and

(B) is integrated with a local resources data base maintained by a recognized 211 service provider.

Permissible expenditures under this subdivision include expenditures for planning, training, accreditation, and system evaluation.

(2) The development and implementation of a statewide 211 resources data base described in subdivision (1). Permissible expenditures under this subdivision include expenditures for planning, training, accreditation, and system evaluation.

(3) Collecting, organizing, and maintaining information from state agencies, departments, and programs that provide human services, for access by a recognized 211 service provider.

(4) Providing grants to a recognized 211 service provider for any of the following purposes:

(A) The design, development, and implementation of 211 services in a recognized 211 service provider's 211 service area. Funds provided under this subdivision may be used for planning, public awareness, training, accreditation, and evaluation.

(B) The provision of 211 services on an ongoing basis after the design, development, and implementation of 211 services in a recognized 211 service provider's 211 service area.

(C) The provision of 211 services on a twenty-four (24) hour per day, seven (7) day per week basis.

(f) The expenses of administering the account shall be paid from money in the account.

(g) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(h) Money that is in the account under subsection (b)(2) through (b)(4) at the end of **a** state ~~a~~ fiscal year does not revert to the state general fund.

SECTION 28. IC 8-1-19.5-12 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The commission shall, after June 30 and before November 1 of each year, report to the general assembly on the following:

(1) The total amount of money deposited in the account during the most recent state fiscal year.

(2) The amount of funds, if any, received from the federal government during the most recent state fiscal year for the support of 211 services in Indiana. The information provided under this subdivision must include the amount of any matching funds, broken down by source, contributed by any source to secure the federal funds.

(3) The amount of money, if any, disbursed from the account for the following:

(A) The creation of a structure for a statewide 211 resources data base described in ~~section 11(c)(1)~~ **section 11(e)(1)** of this chapter.

(B) The development and implementation of a statewide 211 resources data base described in ~~section 11(c)(1)~~ **section 11(e)(1)** of this chapter.

(C) Collecting, organizing, and maintaining information from state agencies, departments, and programs that provide human services, for access by a recognized 211 service provider.

The information provided under this subdivision must identify any recognized 211 service provider or other organization that received funds for the purposes set forth in this subdivision.

(4) The amount of money, if any, disbursed from the account as grants to a recognized 211 service provider for any of the purposes described in ~~section 11(c)(4)~~ **section 11(e)(4)** of this chapter. The information provided under this subdivision must identify the recognized 211 service provider that received the grant and the amount and purpose of the grant received.

(5) The expenses incurred by the commission in complying with this chapter during the most recent state fiscal year.

(6) The projected budget required by the commission to comply with this chapter during the current state fiscal year.

(b) The report required under this section must be in an electronic format under IC 5-14-6.

SECTION 29. IC 8-1.5-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this ~~section,~~ **chapter,** "unusually large bill" means a residential water bill that reflects monthly water usage, in whatever units measured, that is at least two (2) times the customer's average monthly usage at the

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premises.

SECTION 30. IC 8-1.5-3.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this ~~section,~~ **chapter,** "utility" refers to a water utility owned or operated by a municipality.

SECTION 31. IC 8-21-3-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.5. (a) Each person offering an aircraft for rental shall, at the time the aircraft is rented, provide the renter of the aircraft with written notice of the nature and extent of any insurance covering the aircraft as specified in subsection (b).

(b) The form of the notice required by subsection (a) must be as follows:

NOTICE OF INSURANCE COVERAGE

As a renter of aircraft, you are hereby notified that:

(1) You (are)(are not) (strike phrase not applicable) insured under a policy or policies of insurance provided by the undersigned and providing liability coverage to renters of aircraft. If coverage is provided, it is in the amount of $ _____.

(a) The above insurance is subject to a deductible amount of $ _____.

(2) You (are)(are not) (strike phrase not applicable) insured for hull damage to the aircraft. If hull insurance is provided, it is in the amount of $ ____.

(a) The above insurance is subject to a deductible amount of $ ____.

(3) Although insurance may be provided for liability or hull coverage (or both), the undersigned's insurance carrier has full rights to subrogate against you for any payments it may be required to make on account of any damage or loss arising out of your operation of the aircraft. It is suggested that you carry insurance to protect you to partially or fully cover this possibility.

_____

(Signature of Person or Officer of
Company Renting Aircraft)

Dated _____, ~~19~~_____ **20**_____

(Month) (Day) (Year)

I acknowledge receipt of this notice of insurance coverage.

Dated _____, ~~19~~_____ **20**_____

(Month) (Day) (Year)

(c) The notice required by this section constitutes a part of a rental agreement, whether written or oral. Each renter must provide written

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acknowledgment of receipt of the notice.

(d) Receipt of notice under this section constitutes notice for a subsequent rental of the same aircraft to the same person unless the amount of insurance coverage has been reduced or eliminated (as specified in the original notice), in which case a new notice is required.

(e) A person offering an aircraft for rental shall maintain a copy of the notice provided to each renter for at least three (3) years from the date of the last rental to that renter.

(f) A person offering an aircraft for rental who fails to provide notice as required by this section commits a Class A infraction.

SECTION 32. IC 8-23-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The bond provided in this section must be in substantially the following form:

"KNOW ALL PERSONS BY THESE PRESENTS, THAT _____ as principal and _____ as surety, are firmly bound unto the state of Indiana in the penal sum of an amount equal to ____ percent of the principal's bid or the contract price, if the proposal is accepted for the payment of which, well and truly to be made, we bind ourselves, jointly and severally, and our joint and several heirs, executors, administrators, and assigns, firmly by these presents, this ____ day of _____, ____.

"THE CONDITIONS OF THE ABOVE OBLIGATIONS ARE SUCH That, Whereas, the principal is herewith submitting a bid and proposal for the erection, construction, and completion of _____ in accordance with the plans and specifications approved and adopted by the department, which are made a part of this bond:

"NOW, THEREFORE, if the department shall award the principal the contract for work and the principal shall promptly enter into a contract with the department in the name of the state of Indiana for the work and shall well and faithfully do and perform the same in all respects according to the plans and specifications adopted by the department, and according to the time, terms, and conditions specified in the contract to be entered into, and in accordance with all requirements of law, and shall promptly pay all debts incurred by the principal or any subcontractor in the construction of the work, including labor, service, and materials furnished, then this obligation shall be void; otherwise to remain in full force, virtue, and effect.

"IT IS AGREED that no modifications, omissions, or additions in or to the terms of such contract or in or to the plans or specifications therefor shall in any wise affect the obligation of such sureties on its bond.

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"IN WITNESS WHEREOF, we hereunto set our hands and seals this ___ day of _____, ~~19__."~~ **20__.".**

SECTION 33. IC 9-14-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The bureau may establish a driving record for an Indiana resident who does not hold any type of valid driving license, as provided in IC 9-24-18-9.

(b) The bureau shall establish a driving ~~license~~ **record** for an unlicensed driver when an abstract of court conviction is received by the bureau, as provided in IC 9-24-18-9.

(c) A driving record under this section may not include voter registration information.

SECTION 34. IC 9-18-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If a person ~~who~~ has registered a vehicle and has been issued a personalized license plate for use on a leased vehicle, **and:**

(1) **the person** cancels the lease; or

(2) the lease expires during the registration year;

the person may transfer the registration to another vehicle eligible to be registered under this chapter.

(b) A transfer of a license plate under subsection (a) must take place not more than thirty-one (31) days after the expiration of the lease.

(c) The bureau may reissue the license plate with the combination of numerals and letters returned under subsection (a) upon receiving an application for registration under this chapter.

SECTION 35. IC 9-18-25-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.7. ~~Sections 14,~~ **Section** 15 ~~and 16~~ of this chapter ~~do~~ **does** not apply to a college or university special group recognition license plate.

SECTION 36. IC 9-19-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A person who:

(1) holds an Indiana driver's license; and

(2) operates a motor vehicle in which there is a child less than eight (8) years of age who is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a child restraint system;

commits a Class D infraction, unless it is reasonably determined that the child will not fit in a child ~~passenger~~ restraint system.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 37. IC 9-24-15-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. (a) The court

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shall grant a petition for a restricted driving permit filed under this chapter if all of the following conditions exist:

(1) The person was not convicted of one (1) or more of the following:

(A) A Class D felony under IC 9-30-5-4 before July 1, 1996, or a Class D felony or a Class C felony under IC 9-30-5-4 after June 30, 1996.

(B) A Class C felony under IC 9-30-5-5 before July 1, 1996, or a Class C felony or a Class B felony under IC 9-30-5-5 after June 30, 1996.

(2) The person's driving privileges were suspended under ~~IC 9-30-6-9(b)~~ **IC 9-30-6-9(c)** or IC 35-48-4-15.

(3) The driving that was the basis of the suspension was not in connection with the person's work.

(4) The person does not have a previous conviction for operating while intoxicated.

(5) The person is participating in a rehabilitation program certified by either the division of mental health and addiction or the Indiana judicial center as a condition of the person's probation.

(b) The person filing the petition for a restricted driving permit shall include in the petition the information specified in subsection (a) in addition to the information required by sections 3 through 4 of this chapter.

(c) Whenever the court grants a person restricted driving privileges under this chapter, that part of the court's order granting probationary driving privileges shall not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9. In a county that provides for the installation of an ignition interlock device under IC 9-30-8, installation of an ignition interlock device is required as a condition of probationary driving privileges for the entire duration of the probationary driving privileges.

(d) If a court requires installation of a certified ignition interlock device under subsection (c), the court shall order the bureau to record this requirement in the person's operating record in accordance with IC 9-14-3-7. When the person is no longer required to operate only a motor vehicle equipped with an ignition interlock device, the court shall notify the bureau that the ignition interlock use requirement has expired and order the bureau to update its records accordingly.

SECTION 38. IC 9-24-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b) and section 6.5 of this chapter, an individual

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may not receive a restricted driving permit if the individual's driving privileges are suspended under IC 9-30-5 through IC 9-30-9 or IC 9-30-13-3.

(b) If the individual's driving privileges are suspended under ~~IC 9-30-6-9(b)~~ **IC 9-30-6-9(c)** and the individual does not have a previous conviction for operating while intoxicated, the individual may receive a restricted driving permit if the individual otherwise qualifies for the permit.

SECTION 39. IC 9-30-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or

(3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense, or if the person operated the motor vehicle when the person knew that the person's driver's license, driving privilege, or permit is suspended or revoked for a previous conviction for operating a vehicle while intoxicated.

(b) A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

(2) with a controlled substance listed in schedule I or II of ~~IC 35-48-4~~ **IC 35-48-2** or its metabolite in the person's blood;

commits a Class B felony.

(c) A person who violates subsection (a) or (b) commits a separate offense for each person whose death is caused by the violation of subsection (a) or (b).

(d) It is a defense under subsection (a)(2) or subsection (b)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

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SECTION 40. IC 9-30-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) A person whose driving privileges are suspended under section 10 of this chapter:

(1) is entitled to credit for any days during which the license was suspended under ~~IC 9-30-6-9(b),~~ **IC 9-30-6-9(c);** and

(2) may not receive any credit for days during which the person's driving privileges were suspended under ~~IC 9-30-6-9(a).~~ **IC 9-30-6-9(b).**

(b) A period of suspension of driving privileges imposed under section 10 of this chapter must be consecutive to any period of suspension imposed under ~~IC 9-30-6-9(a).~~ **IC 9-30-6-9(b).** However, if the court finds in the sentencing order that it is in the best interest of society, the court may terminate all or any part of the remaining suspension under ~~IC 9-30-6-9(a).~~ **IC 9-30-6-9(b).**

SECTION 41. IC 9-30-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A person against whom an ignition interlock device order has been issued under section 8.5 of this chapter or whose driving privileges have been suspended under section 9 of this chapter is entitled to a prompt judicial hearing. The person may file a petition that requests a hearing:

(1) in the court where the charges with respect to the person's operation of a vehicle are pending; or

(2) if charges with respect to the person's operation of a vehicle have not been filed, in any court of the county where the alleged offense or refusal occurred that has jurisdiction over crimes committed in violation of IC 9-30-5.

(b) The petition for review must:

(1) be in writing;

(2) be verified by the person seeking review; and

(3) allege specific facts that contradict the facts alleged in the probable cause affidavit.

(c) The hearing under this section shall be limited to the following issues:

(1) Whether the arresting law enforcement officer had probable cause to believe that the person was operating a vehicle in violation of IC 9-30-5.

(2) Whether the person refused to submit to a chemical test offered by a law enforcement officer.

(d) If the court finds:

(1) that there was no probable cause; or

(2) that the person's driving privileges were suspended under

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~~section 9(a)~~ **section 9(b)** of this chapter and that the person did not refuse to submit to a chemical test;

the court shall order the bureau to rescind the ignition interlock device requirement or reinstate the person's driving privileges.

(e) The prosecuting attorney of the county in which a petition has been filed under this chapter shall represent the state on relation of the bureau with respect to the petition.

(f) The petitioner has the burden of proof by a preponderance of the evidence.

(g) The court's order is a final judgment appealable in the manner of civil actions by either party. The attorney general shall represent the state on relation of the bureau with respect to the appeal.

SECTION 42. IC 9-30-6-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.5. Whenever a case filed under IC 9-30-5 is terminated in favor of the defendant and the defendant's driving privileges were suspended under ~~section 9(b)~~ **section 9(c)** of this chapter, the bureau shall remove any record of the suspension, including the reason for suspension, from the defendant's official driving record.

SECTION 43. IC 9-30-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. The bureau certificate must contain the following information and may be substantially in the following form:

BUREAU OF MOTOR VEHICLES
CERTIFICATE

Date of Arrest Time Driver's License No. License State
a.m.
/ / p.m.
Name: (first) (M.I.) (last) Date of Birth
/ /
CURRENT Address (street, city, state, zip)
Court Code Cause Number Sex Weight Height Eyes Hair
The above motorist BUREAU USE ONLY
REFUSED alcohol test
FAILED alcohol test 0.%
Court Determination
It has been determined there was probable cause the defendant violated IC 9-30-5 this _____ day of _____, ~~19__~~ **20__** and that charges are pending herein.
_____ Court _____ County
_____
Judge's Signature

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SECTION 44. IC 9-30-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) A person against whom an ignition interlock device order has been issued under section 8.5 of this chapter or whose driving privileges have been suspended under ~~section 9(b)~~ **section 9(c)** of this chapter is entitled to rescission of the ignition interlock device requirement or reinstatement of driving privileges if the following occur:

(1) After a request for an early trial is made by the person at the initial hearing on the charges, a trial or other disposition of the charges for which the person was arrested under IC 9-30-5 is not held within ninety (90) days after the date of the person's initial hearing on the charges.

(2) The delay in trial or disposition of the charges is not due to the person arrested under IC 9-30-5.

(b) A person who desires rescission of the ignition interlock device requirement or reinstatement of driving privileges under this section must file a verified petition in the court where the charges against the petitioner are pending. The petition must allege the following:

(1) The date of the petitioner's arrest under IC 9-30-5.

(2) The date of the petitioner's initial hearing on the charges filed against the petitioner under IC 9-30-5.

(3) The date set for trial or other disposition of the matter.

(4) A statement averring the following:

(A) That the petitioner requested an early trial of the matter at the petitioner's initial hearing on the charges filed against the petitioner under IC 9-30-5.

(B) The trial or disposition date set by the court is at least ninety (90) days after the date of the petitioner's initial hearing on the charges filed against the petitioner under IC 9-30-5.

(C) The delay in the trial or disposition is not due to the petitioner.

(c) Upon the filing of a petition under this section, the court shall immediately examine the record of the court to determine whether the allegations in the petition are true.

(d) If the court finds the allegations of a petition filed under this section are true, the court shall order rescission of the ignition interlock device requirement or reinstatement of the petitioner's driving privileges under section 11 of this chapter. The reinstatement must not take effect until ninety (90) days after the date of the petitioner's initial hearing.

SECTION 45. IC 9-30-9-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) A person

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commits a Class B infraction if the person:

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section ~~5(d)~~ **5(c)** or ~~7(d)~~ **7(c)** of this chapter.

(b) A person commits a Class B misdemeanor if the person:

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section ~~5(d)~~ **5(c)** or ~~7(d)~~ **7(c)** of this chapter.

SECTION 46. IC 10-18-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The county executive shall:

(1) provide a fund ~~as is~~ necessary for the:

(A) management;

(B) maintenance;

(C) repair; and

(D) improvement;

of any county world war memorial;

(2) pay its part of the cost of:

(A) management;

(B) maintenance;

(C) repair; and

(D) improvement;

of any joint county and city world war memorial, as determined by contract; and

(3) raise money for the fund by taxation in the manner ~~as~~ provided by law for all other county expenses.

SECTION 47. IC 11-13-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Where supervision of a parolee or probationer is being administered under IC 11-13-4 **or IC 11-13-4.5,** the appropriate judicial or administrative authorities in this state shall notify the compact administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole or probation violation. Prior to the giving of the notification, a hearing shall be held in accordance with this chapter within a reasonable time, unless the hearing is waived by the parolee or probationer. The appropriate officer or officers of this state shall as soon as practicable, following termination of the hearing,

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report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the parolee or the probationer by the sending state. Pending any proceeding pursuant to this section, the appropriate officers of this state may take custody of and detain the parolee or probationer involved for a period not to exceed fifteen (15) days prior to the hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.

SECTION 48. IC 12-7-2-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 64. "Director" refers to the following:

(1) With respect to a particular division, the director of the division.

(2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.

(3) For purposes of IC 12-10-15, the term refers to the director of the division of ~~disabilities,~~ **disability,** aging, and rehabilitative services.

(4) For purposes of IC 12-25, the term refers to the director of the division of mental health and addiction.

(5) For purposes of IC 12-26, the term:

(A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and

(B) includes the director's designee.

(6) If subdivisions (1) through (5) do not apply, the term refers to the director of any of the divisions.

SECTION 49. IC 12-13-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The division shall administer the following:

(1) The Community Services Block Grant under 42 U.S.C. 9901 et seq.

(2) The Low Income Home Energy Assistance Block Grant under 42 U.S.C. 8621 et seq.

(3) The United States Department of Energy money under 42 U.S.C. 6851 et seq.

(4) The domestic violence prevention and treatment fund under IC 12-18-4.

(5) The Child Care and Development Block Grant under ~~42 U.S.C. 658 et seq.~~ **42 U.S.C. 9858 et seq.**

(6) Title IV-B of the federal Social Security Act under 42 U.S.C.

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620 et seq.

(7) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.

(8) The federal Food Stamp Program under 7 U.S.C. 2011 et seq.

(9) The Social Services Block Grant under 42 U.S.C. 1397 et seq.

(10) Title IV-A of the federal Social Security Act.

(11) Any other funding source:

(A) designated by the general assembly; or

(B) available from the federal government under grants that are consistent with the duties of the division.

SECTION 50. IC 12-13-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The division is the single state agency responsible for administering the following:

(1) The Child Care and Development Block Grant under ~~42 U.S.C. 658 et seq.~~ **42 U.S.C. 9858 et seq.** The division shall apply to the United States Department of Health and Human Services for a grant under the Child Care Development Block Grant.

(2) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.

(3) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.

(4) The federal Food Stamp Program under 7 U.S.C. 2011 et seq.

(5) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.

SECTION 51. IC 12-15-2-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) This section applies to a person who qualifies for assistance:

(1) under sections 13 through 16 of this chapter;

(2) under section 6 of this chapter when the person becomes ineligible for medical assistance under IC 12-14-2-5.1 or IC 12-14-2-5.3; or

~~(2)~~ **(3)** as a disabled person if the person is less than eighteen (18) years of age and otherwise qualifies for assistance.

(b) Notwithstanding any other law, the following may not be construed to limit health care assistance to a person described in subsection (a):

(1) IC 12-8-1-13.

(2) IC 12-14-1-1.

(3) IC 12-14-1-1.5.

(4) IC 12-14-2-5.1.

(5) IC 12-14-2-5.2.

(6) IC 12-14-2-5.3.

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(7) IC 12-14-2-17.
(8) IC 12-14-2-18.
(9) IC 12-14-2-20.
(10) IC 12-14-2-21.
(11) IC 12-14-2-22.
(12) IC 12-14-2-24.
(13) IC 12-14-2-25.
(14) IC 12-14-2-26.
(15) IC 12-14-2.5.
(16) IC 12-14-5.5.
(17) Section 21 of this chapter.
(18) IC 12-15-5-3.

SECTION 52. IC 12-15-19-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. ~~(a) For the state fiscal year beginning July 1, 1999, and ending June 30, 2000, the state shall pay providers as follows:~~

~~(1) The state shall make disproportionate share provider payments to municipal disproportionate share providers qualifying under IC 12-15-16-1(b) until the state exceeds the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)).~~

~~(2) After the state makes all payments under subdivision (1), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), or the state limit on disproportionate share expenditures for institutions for mental diseases (as defined in 42 U.S.C. 1396r-4(h)), the state shall make community mental health center disproportionate share provider payments to providers qualifying under IC 12-15-16-1(c). The total paid to the qualified community mental health center disproportionate share providers under section 9(a) of this chapter, including the amount of expenditures certified as being eligible for federal financial participation under IC 12-15-18-5.1(e), must be at least six million dollars ($6,000,000).~~

~~(3) After the state makes all payments under subdivision (2), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), the state shall make disproportionate share provider payments to providers qualifying under IC 12-15-16-1(a).~~

~~(b)~~ For state fiscal years beginning after June 30, 2000, the state shall pay providers as follows:

(1) The state shall make municipal disproportionate share provider payments to providers qualifying under IC 12-15-16-1(b)

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until the state exceeds the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)).

(2) After the state makes all payments under subdivision (1), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), the state shall make disproportionate share provider payments to providers qualifying under IC 12-15-16-1(a).

(3) After the state makes all payments under subdivision (2), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), or the state limit on disproportionate share expenditures for institutions for mental diseases (as defined in 42 U.S.C. 1396r-4(h)), the state shall make community mental health center disproportionate share provider payments to providers qualifying under IC 12-15-16-1(c).

SECTION 53. IC 12-15-35-28, AS AMENDED BY P.L.28-2004, SECTION 104, AND AS AMENDED BY P.L.97-2004, SECTION 51, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) The board has the following duties:

(1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.

(2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.

(3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.

(4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.

(5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of

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Health and Human Services and to the Indiana legislative council by December 1 of each year. The report *issued* to the legislative council must be in an electronic format under IC 5-14-6.

(6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:

(A) The Indiana board of pharmacy.

(B) The medical licensing board of Indiana.

(C) The SURS staff.

(7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.

(8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:

(A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.

(B) Potential or actual severe or adverse reactions to drugs.

(C) Therapeutic appropriateness.

(D) Overutilization or underutilization.

(E) Appropriate use of generic drugs.

(F) Therapeutic duplication.

(G) Drug-disease contraindications.

(H) Drug-drug interactions.

(I) Incorrect drug dosage and duration of drug treatment.

(J) Drug allergy interactions.

(K) Clinical abuse and misuse.

(9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.

(10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.

(11) The research, development, and approval of a preferred drug list for:

(A) Medicaid's fee for service program;

(B) Medicaid's primary care case management program; and

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(C) the primary care case management component of the children's health insurance program under IC 12-17.6;

in consultation with the therapeutics committee.

(12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.

(13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.

(15) Advising the Indiana comprehensive health insurance association established by IC 27-8-10-2.1 concerning implementation of chronic disease management and pharmaceutical management programs under IC 27-8-10-3.5.

(b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.

(c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:

(1) Use literature abstracting technology.

(2) Use commonly accepted guidance principles of disease management.

(3) Develop therapeutic classifications for the preferred drug list.

(4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.

(5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.

(d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.

(e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date on which the manufacturer notifies the board in writing of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization

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may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration, and that is:

(1) in a therapeutic classification:

(A) that has not been reviewed by the board; and

(B) for which prior authorization is not required; or

(2) the sole drug in a new therapeutic classification that has not been reviewed by the board.

(f) The board may not exclude a drug from the preferred drug list based solely on price.

(g) The following requirements apply to a preferred drug list developed under subsection (a)(11):

(1) Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c), the office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:

(A) To override a prospective drug utilization review alert.

(B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.

(C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.

(D) To permit implementation of a disease management program.

(E) To implement other initiatives permitted by state or federal law.

(2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.

(3) The office may add a drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.

(4) The board may add a drug that has been approved by the federal Food and Drug Administration to the preferred drug list.

(h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:

(1) The cost of administering the preferred drug list.

(2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.

(3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.

(4) The number of times prior authorization was requested, and

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the number of times prior authorization was:

(A) approved; and

(B) disapproved.

(i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

SECTION 54. IC 12-17-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The Title IV-D agency shall provide incentive payments to counties for enforcing and collecting the support rights that have been assigned to the state. The incentive payments shall be made by the Title IV-D agency directly to the county and deposited in the county treasury for distribution on a quarterly basis and in equal shares to the following:

(1) The county general fund.

(2) The operating budget of the prosecuting attorney.

(3) The operating budget of the circuit court clerk.

(b) Notwithstanding IC 36-2-5-2(b), distribution from the county treasury under subsection (a) shall be made without the necessity of first obtaining an appropriation from the county fiscal body.

(c) The amount that a county receives and the terms under which the incentive payment is paid must be in accordance with ~~42 U.S.C. 658 and 42 U.S.C. 658A~~ **relevant federal statutes** and the federal regulations promulgated under the statutes. However, amounts received as incentive payments may not, without the approval of the county fiscal body, be used to increase or supplement the salary of an elected official. The amounts received as incentive payments must be used to supplement, rather than take the place of, other funds used for Title IV-D program activities.

SECTION 55. IC 13-11-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) "Board", except as provided in subsections (b) through ~~(j),~~ **(i),** refers to:

(1) the air pollution control board;

(2) the water pollution control board; or

(3) the solid waste management board.

(b) "Board", for purposes of IC 13-13-6, refers to the northwest Indiana advisory board.

(c) "Board", for purposes of IC 13-17, refers to the air pollution control board.

(d) "Board", for purposes of IC 13-18, refers to the water pollution control board.

(e) "Board", for purposes of:

(1) IC 13-19;

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(2) IC 13-20;
(3) IC 13-22;
(4) IC 13-23, except IC 13-23-11;
(5) IC 13-24; and
(6) IC 13-25;

refers to the solid waste management board.

(f) "Board", for purposes of IC 13-21, refers to the board of directors of a solid waste management district.

(g) "Board", for purposes of IC 13-23-11, refers to the underground storage tank financial assurance board.

(h) "Board", for purposes of IC 13-26, refers to the board of trustees of a regional water, sewage, or solid waste district.

(i) "Board", for purposes of IC 13-27 and IC 13-27.5, refers to the clean manufacturing technology board.

SECTION 56. IC 13-11-2-61 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 61. "Dredged material", for purposes of this chapter, ~~and IC 13-18-22,~~ means material that is dredged or excavated from an isolated wetland.

SECTION 57. IC 13-14-9-3, AS AMENDED BY P.L.240-2003, SECTION 4, AND AS AMENDED BY P.L.282-2003, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) *Except as provided in subsection (b),* the department shall provide notice in the Indiana Register of the first public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

(1) Identify the authority under which the proposed rule is to be adopted.

(2) Describe the subject matter and the basic purpose of the proposed rule. The description required by this subdivision must:

(A) include a listing of all alternatives being considered by the department at the time of the notice; ~~*and must*~~

(B) include:

(i) a statement indicating whether each alternative listed under clause (A) is imposed under federal law;

(ii) a statement explaining how each alternative listed under clause (A) that is not imposed under federal law differs from federal law; and

(iii) any information known to the department about the potential fiscal impact of each alternative under clause (A) that is not imposed under federal law; and

(C) set forth the basis for each alternative *listed under clause (A).*

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(3) Describe the relevant statutory or regulatory requirements or restrictions relating to the subject matter of the proposed rule that exist before the adoption of the proposed rule.

(4) Request the submission of alternative ways to achieve the purpose of the proposed rule.

(5) Request the submission of comments, including suggestions of specific language for the proposed rule.

(6) Include a detailed statement of the issue to be addressed by adoption of the proposed rule.

(b) This section does not apply to rules adopted under IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.

SECTION 58. IC 13-18-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The board may adopt rules under IC 4-22-2 and IC 13-14 not later than February 1, 2005, to implement the part of the definition of Class I wetland under ~~IC 13-11-2-25.8(1)(B).~~ **IC 13-11-2-25.8(a)(1)(B).**

(b) Before the adoption of rules by the board under subsection (a), the department shall determine the class of a wetland in a manner consistent with the definitions of Class I, II, and III wetlands in IC 13-11-2-25.8.

(c) The classification of an isolated wetland that is based on the level of disturbance of the wetland by human activity or development may be improved to a higher numeric class if an action is taken to restore the isolated wetland, in full or in part, to the conditions that existed on the isolated wetland before the disturbance occurred.

SECTION 59. IC 14-30-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a) Subject to subsection (b),~~ The upper Wabash River basin commission is established as a separate municipal corporation.

~~(b) If less than all of the executives of the counties that include territory within the upper Wabash River basin elect to participate in the commission before January 1, 2002, the commission expires on January 1, 2002.~~

SECTION 60. IC 16-38-4-8, AS AMENDED BY P.L.17-2004, SECTION 6, AND AS AMENDED BY P.L.28-2004, SECTION 138, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The state department shall establish a birth problems registry for the purpose of recording all cases of birth problems that occur in Indiana residents and compiling necessary and appropriate information concerning those cases, as determined by the state department, in order to:

(1) conduct epidemiologic and environmental studies and to apply

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appropriate preventive and control measures;

(2) inform the parents of children with birth problems:

(A) at the time of discharge from the hospital; or

(B) if a birth problem is diagnosed during a physician or hospital visit that occurs before the child is:

(i) except as provided in item (ii), three (3) years of age at the time of diagnosis; or

(ii) five (5) years of age at the time of diagnosis if the disorder is a pervasive developmental disorder or a fetal alcohol spectrum disorder; ~~*two (2) years of age, at the time of diagnosis,*~~

about physicians, care facilities, and appropriate community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-17-15); or

(3) inform citizens regarding programs designed to prevent or reduce birth problems.

(b) The state department shall record in the birth problems registry:

(1) all data concerning birth problems of children that are provided from the certificate of live birth; and

(2) any additional information that may be provided by an individual or entity described in section 7(a)(2) of this chapter concerning a birth problem that is:

(A) designated in a rule adopted by the state department; and

(B) recognized:

(i) after the child is discharged from the hospital as a newborn; ~~*and*~~

(ii) before the child is ~~*two (2)*~~ *five (5)* years of age *if the child is diagnosed with a pervasive developmental disorder or a fetal alcohol spectrum disorder; and*

(iii) before the child is three (3) years of age for any diagnosis not specified in item (ii).

(c) The state department shall:

(1) provide a physician and a local health department with necessary forms for reporting under this chapter; and

(2) report *in an electronic format under IC 5-14-6* to the legislative council any birth problem trends that are identified through the data collected under this chapter.

SECTION 61. IC 16-42-19-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) A person who knowingly violates this chapter, except sections 24 and ~~25(c)~~ **25(b)** of this chapter, commits a Class D felony. However, the offense is a Class C felony if the person has a prior conviction under this

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subsection or IC 16-6-8-10(a) before its repeal.

(b) A person who violates section 24 of this chapter commits a Class B misdemeanor.

(c) A person who violates section 25(b) of this chapter commits dealing in an anabolic steroid, a Class C felony. However, the offense is a Class B felony if the person delivered the anabolic steroid to a person who is:

(1) less than eighteen (18) years of age; and

(2) at least three (3) years younger than the delivering person.

SECTION 62. IC 16-46-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The council consists of the following twenty-one (21) members:

(1) Two (2) members of the house of representatives from different political parties appointed by the speaker of the house of representatives.

(2) Two (2) members of the senate from different political parties appointed by the president pro tempore of the senate.

(3) The governor or the governor's designee.

(4) The state health commissioner or the commissioner's designee.

(5) The director of the division of family and children or the director's designee.

(6) The director of the office of Medicaid policy and planning or the director's designee.

(7) The director of the division of mental health and addiction or the director's designee.

(8) The commissioner of the department of correction or the commissioner's designee.

(9) One (1) representative of a local health department **appointed by the governor.**

(10) One (1) representative of a public health care facility appointed by the governor.

(11) One (1) psychologist appointed by the governor who:

(A) is licensed to practice psychology in Indiana; and

(B) has knowledge and experience in the special health needs of minorities.

(12) One (1) member appointed by the governor based on the recommendation of the Indiana State Medical Association.

(13) One (1) member appointed by the governor based on the recommendation of the National Medical Association.

(14) One (1) member appointed by the governor based on the recommendation of the Indiana Hospital and Health Association.

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(15) One (1) member appointed by the governor based on the recommendation of the American Cancer Society.

(16) One (1) member appointed by the governor based on the recommendation of the American Heart Association.

(17) One (1) member appointed by the governor based on the recommendation of the American Diabetes Association.

(18) One (1) member appointed by the governor based on the recommendation of the Black Nurses Association.

(19) One (1) member appointed by the governor based on the recommendation of the Indiana Minority Health Coalition.

(b) At least fifty-one percent (51%) of the members of the council must be minorities.

SECTION 63. IC 22-3-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. When any compensable injury requires the filing of a first report of injury by an employer, the employer's worker's compensation insurance carrier or the self-insured employer shall forward a copy of the report to the central office of the division of disability, aging, and rehabilitative services, ~~rehabilitative~~ **rehabilitation** services bureau at the earlier of the following occurrences:

(1) When the compensable injury has resulted in temporary total disability of longer than twenty-one (21) days.(2) When it appears that the compensable injury may be of such a nature as to permanently prevent the injured employee from returning to the injured employee's previous employment.

SECTION 64. IC 24-4.5-7-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 103. The following definitions apply to this chapter:

"Small loan"	Section 7-104
"Principal"	Section 7-105
"Check"	Section 7-106
"Renewal"	Section 7-107
"Consecutive small loan"	Section 7-108
"Paid in full"	Section 7-109
"Monthly ~~net~~ **gross** income"	Section 7-110

SECTION 65. IC 24-5-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The seller shall put every contract in writing and shall give the investor a copy of the contract at the time the investor signs the contract.

(b) The seller shall include in every contract the following:

(1) The seller's business address and the name and business address of the seller's agent in this state authorized to receive

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service of process.

(2) The terms and conditions of payment.

(3) A detailed description of any services that the seller undertakes to perform for the investor.

(4) A detailed description of any training that the seller undertakes to provide to the investor.

(5) The approximate delivery date of any goods the seller is to deliver to the investor.

(6) A statement of the investor's right to cancel that must:

(A) appear under the conspicuous caption, "INVESTOR'S RIGHT TO CANCEL WITHIN 30 DAYS"; and

(B) contain the following statement in no smaller type than the body portion of the contract: "THE INVESTOR IN THIS BUSINESS OPPORTUNITY HAS THE RIGHT TO CANCEL THIS CONTRACT FOR ANY REASON AT ANY TIME BEFORE MIDNIGHT OF THE 30TH CALENDAR DAY AFTER THIS CONTRACT IS ENTERED INTO. YOU MAY CANCEL THIS CONTRACT BY MAILING A NOTICE THAT YOU DO NOT WANT THE BUSINESS OPPORTUNITY TO THE SELLER BEFORE _____, ~~19~~ **20**__ AT 12:00 MIDNIGHT AT _____.".

(c) Subsection (b)(6) does not apply to a contract entered into by a substantial seller, unless required by the consumer protection division of the office of the attorney general for good cause shown after notice.

SECTION 66. IC 25-1-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The ~~bureau~~ **licensing agency** and the boards may allow the department of state revenue access to the name of each person who:

(1) is licensed under this chapter; or

(2) has applied for a license under this chapter.

(b) If the department of state revenue notifies the ~~bureau~~ **licensing agency** that a person is on the most recent tax warrant list, the ~~bureau~~ **licensing agency** may not issue or renew the person's license until:

(1) the person provides to the ~~bureau~~ **licensing agency** a statement from the department of revenue that the person's delinquent tax liability has been satisfied; or

(2) the ~~bureau~~ **licensing agency** receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

SECTION 67. IC 25-1-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "armed forces of the United States" means the active or reserve

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components of:

(1) the Army;

(2) the Navy;

(3) the Air Force;

(4) the Coast Guard;

(5) the Marine ~~Corp;~~ **Corps;** or

(6) the Merchant Marine.

SECTION 68. IC 25-1-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Notwithstanding any other law, a practitioner who is called to active duty out of state and meets the requirements of subsection (b) is entitled to an extension of time described in subsection (c) to:

(1) renew; and

(2) complete the continuing education required by;

the practitioner's license, certificate, registration, or permit.

(b) The practitioner must meet the following requirements to receive the extension of time provided under subsection (a):

(1) On the date the practitioner enters active duty, the practitioner's license, certificate, registration, or permit may not be revoked, suspended, lapsed, or be the subject of a complaint under IC 25-1-7.

(2) **The practitioner's license, certificate, registration, or permit must expire** while the practitioner is out of state on active duty, ~~(A) the practitioner's license, certificate, registration, or permit must expire;~~ and ~~(B)~~ the practitioner must not have received the notice of expiration before the date the practitioner entered active duty.

(3) The practitioner shall provide proof of out of state active duty by providing a copy of the practitioner's:

(A) discharge; or

(B) government movement orders;

to the agency, **board, commission, or committee** issuing the practitioner's license, certificate, registration, or permit at the time the practitioner renews the practitioner's license, certificate, registration, or permit under this chapter.

(c) The extension of time provided under subsection (a) is equal to one hundred eighty (180) days after the date of the practitioner's discharge or release from active duty.

(d) The agency, ~~or~~ board, **commission, or committee** that issued the practitioner's license, certificate, registration, or permit may extend the period provided in subsection (c) if the agency or board determines that an illness, an injury, or a disability related to the practitioner's

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active duty prevents the practitioner from renewing or completing the continuing education required for the practitioner's license, certificate, registration, or permit. However, the agency, **board, commission, or committee** may not extend the period for longer than three hundred sixty-five (365) days after the date of the practitioner's discharge or release from active duty.

SECTION 69. IC 25-28.5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The commission shall do the following:

(1) Adopt a seal with the words "Indiana Plumbing Commission" and such other device as may be selected by which it shall authenticate the acts of the commission. Copies of all records and papers, when certified by the secretary and issued under the seal of the commission, shall be received in evidence in all cases equally and with like effect as the original commission records.

(2) Prescribe the form of licenses and issue the same under its seal. All such licenses, while in force, shall be under the supervision and control of the commission.

(3) Issue licenses as plumbing contractors and journeymen plumbers, to any person who qualifies and complies with the provisions of this chapter and pay required license fees.

~~(6)~~ **(4)** Adopt rules in accordance with IC 4-22-2 which establish standards for the competent practice of plumbing.

SECTION 70. IC 25-28.5-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The commission may:

(1) Adopt and promulgate rules and regulations for its guidance and for the regulation of its business and procedure consistent with the provisions of this chapter and in the manner provided in IC 4-22-2.

(2) Enter into such other contracts and authorize expenditures as its duties require, subject to the provisions of this chapter and IC 25-1-6.

~~(4)~~ **(3)** Do all things necessary for carrying into effect the provisions of this chapter.

SECTION 71. IC 25-29-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. An applicant who satisfies the requirements under this chapter may take the examination under ~~IC 25-9-4.~~ **IC 25-29-4.**

SECTION 72. IC 25-29-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The board may issue a license to an applicant who pays a fee established by the

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board and who presents satisfactory evidence to the board that the applicant:

(1) meets the requirements under ~~IC 25-9-3-1;~~ **IC 25-29-3-1;**

(2) is licensed in a state, territory, or possession of the United States;

(3) has passed a podiatric medical licensing examination that is substantially equivalent to the examination under ~~IC 25-9-3,~~ **IC 25-29-4;** and

(4) has practiced podiatric medicine for at least five (5) years.

(b) The board may require an applicant under this section to do the following:

(1) Personally appear before the board.

(2) Pass a medical examination, approved by the board, if at least ten (10) years have elapsed since the applicant passed a medical licensing examination.

SECTION 73. IC 25-29-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The board may issue a limited license to an applicant who pays a fee established by the board and who presents satisfactory evidence to the board that the applicant:

(1) except for the requirements under ~~IC 25-9-3-1(3)~~ **IC 25-29-3-1(3)** and ~~IC 25-9-1(4),~~ **IC 25-29-3-1(4),** meets the requirements under ~~IC 25-9-3-1;~~ **IC 25-29-3-1;**

(2) meets the requirements established by the board; and

(3) is enrolled in a graduate training program in an institution that is approved by the board.

SECTION 74. IC 25-34.1-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this article:

(1) "Person" means an individual, a partnership, a corporation, or a limited liability company.

(2) "Commission" means the Indiana real estate commission.

(3) "Real estate" means any right, title, or interest in real property.

(4) "Broker" means a person who, for consideration, sells, buys, trades, exchanges, options, leases, rents, manages, lists, or appraises real estate or negotiates or offers to perform any of those acts.

(5) "Salesperson" means an individual, other than a broker, who, for consideration and in association with and under the auspices of a broker, sells, buys, trades, exchanges, options, leases, rents, manages, or lists real estate or negotiates or offers to perform any of those acts.

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(6) "Broker-salesperson" means an individual broker who is acting in association with and under the auspices of another broker.

(7) "Principal broker" means a broker who is not acting as a broker-salesperson.

(8) "License" means a broker or salesperson license issued under this article and which is not expired, suspended, or revoked.

(9) "Licensee" means a person who holds a license issued under this article. The term does not include a person who holds a real estate appraiser license or certificate issued under the real estate appraiser licensure and certification program established under IC 25-34.1-3-8.

(10) "Course approval" means approval of a broker or salesperson course granted under this article which is not expired, suspended, or revoked.

(11) "Licensing agency" means the Indiana professional licensing agency established by IC 25-1-6-3.

(12) "Board" refers to the real estate appraiser licensure and certification board established under IC 25-34.1-8-1.

(13) "Commercial real estate" means a parcel of real estate other than real estate containing one (1) to four (4) residential units. This term does not include single family residential units such as:

~~(1)~~ **(A)** condominiums;

~~(2)~~ **(B)** townhouses;

~~(3)~~ **(C)** manufactured homes; or

~~(4)~~ **(D)** homes in a subdivision;

when sold, leased, or otherwise conveyed on a unit-by-unit basis, even if those units are part of a larger building or parcel of real estate containing more than four (4) residential units.

(14) "Out-of-state commercial broker" includes a person, a partnership, an association, a limited liability company, a limited liability partnership, or a corporation that is licensed to do business as a broker in a jurisdiction other than Indiana.

(15) "Out-of-state commercial salesperson" includes a person affiliated with an out-of-state commercial broker who is not licensed as a salesperson under this article.

SECTION 75. IC 27-8-10-2.3, AS AMENDED BY P.L.28-2004, SECTION 168, AND AS AMENDED BY P.L.51-2004, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.3. *(a)* A member shall, not later than October 31 of each year, certify an independently audited report to the:

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(1) association;
(2) legislative council; and
(3) department of insurance;

of the amount of tax credits taken against assessments by the member under section 2.1(n)(1) of this chapter during the previous calendar year. *A report certified under this section to the legislative council must be in an electronic format under IC 5-14-6.*

(b) A member shall, not later than October 31 of each year, certify an independently audited report to the association of the amount of assessments paid by the member against which a tax credit has not been taken under section 2.1 (as in effect December 31, 2004) or 2.4 of this chapter as of the date of the report.

SECTION 76. IC 27-10-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Recognizances for the appearance of prisoners shall in all cases and in all courts be in writing, be taken with at least one (1) resident freehold surety or be secured by a surety company, and be substantially in the following form:

STATE OF INDIANA)
) SS:
COUNTY OF _____)

State of Indiana.
vs.
John Doe

We, A B and C D, jointly and severally acknowledge ourselves bound to the state of Indiana in _____ dollars. If A B (the prisoner) shall appear on the ____ day of _____, ~~19___~~, **20___,** in the _____ court, to answer a charge of (here state the offense) and from day to day and from term to term thereof, and abide the order of the court until the cause is determined and not depart therefrom without leave, then this recognizance shall be void, else to remain in full force. If the above named defendant does not appear at any time fixed in this bond, the court shall order CD (the surety) to produce the defendant. The court shall mail notice of this order to CD, the surety at _____ and _____ in _____ county and state of Indiana. If the surety does not produce the defendant, and does not pay all costs and late surrender fees in compliance with IC 27-10-2-12, the court shall, three hundred sixty-five (365) days after the mailing of the above notice to the surety, declare the bond forfeited, enter judgment forthwith against the surety, and certify the judgment to the clerk for record. Such forfeiture shall be without pleadings and without change of judge or change of venue. The obligors on such bond may appeal to

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the ruling of the court and appeal to the court of appeals as in other civil cases, and on appeal the evidence may be reviewed. Execution shall issue forthwith to the sheriff against the properties of each of us to be levied as other executions are levied.

Witness our hand and seals this ___ day of _____, ~~19___.~~ **20___.**

A B _____ (SEAL)

C D _____ (SEAL)

taken and approved this ___ day of _____, ~~19___.~~ **20___.**

_____

(Officer taking surety)

Affidavits shall be taken from each personal surety substantially as follows:

State of Indiana)

County of _____)

I, C D, being duly sworn, on oath say, that I am worth in my personal rights and name, over and above all debts and liabilities of any and every kind, not less than _____ dollars, and that I possess real estate in my own name, located in the above-named county, which is worth over and above all encumbrances and liens, more than _____ dollars; that I am surety on the following recognizance bonds and none other, aggregating the total amount of _____ to-wit: (Here name bonds and amounts, if any) _____, And that I am not surety on any recognizance bond of any kind in any court which bond has been forfeited which judgment remains unpaid.

C D _____ (SEAL)

Subscribed and sworn to before me, this ___ day of _____, ~~19___.~~ **20___.**

_____

(Officer administering oath)

(b) Printed forms of the above bonds shall be kept by all clerks of court that are authorized by law to admit prisoners to bail and shall be supplied by the clerks to sheriffs.

(c) For the purposes of this article, a cause is determined when a:

(1) judgment of conviction or acquittal is entered for a misdemeanor;

(2) judgment is withheld in a misdemeanor case;

(3) judgment of acquittal is entered in a felony case;

(4) sentence is imposed in a felony case; or

(5) defendant has been ordered or admitted to a diversion program.

SECTION 77. IC 29-1-7.5-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) As soon as

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letters testamentary or letters of administration have been issued, the clerk of the court shall serve by mail notice of the petition on each of the decedent's heirs at law, if the decedent died intestate, or the devisees and legatees under the decedent's will. The mailing of notice under this subsection may not be waived.

(b) The notice required under subsection (a) shall read substantially as follows:

NOTICE OF UNSUPERVISED ADMINISTRATION TO BE MAILED TO A DISTRIBUTEE

In the _____ Court of _____ County, Indiana.

Notice is hereby given that _____, on the _____ day of _____, ~~19__~~, **20__,** was appointed as the personal representative of the estate of _____, who died on the ____ day of _____, ~~19__~~, **20__,** {leaving a will} {not leaving a will}. The estate will be administered without court supervision.

As an heir, a devisee, or a legatee of the estate (a "distributee"), you are advised of the following information:

(1) The personal representative has the authority to take actions concerning the estate without first consulting you.

(2) The personal representative may be serving without posting a bond with the court. You have the right to petition the court to set a bond for your protection.

(3) The personal representative will not obtain court approval of any action, including the amount of attorney's or personal representative's fees.

(4) Within two (2) months after the appointment of the personal representative, the personal representative must prepare an inventory of the estate's assets. You have the right to request and receive a copy of this inventory from the personal representative.

(5) The personal representative is required to furnish you with a copy of the closing statement that will be filed with the court, and, if your interests are affected, with a full account in writing of the administration of the estate.

(6) You must file an objection to the closing statement within three (3) months after the closing statement is filed with the court if you want the court to consider your objection.

(7) If an objection to the closing statement is not filed with the court within three (3) months after the filing of the closing statement, the estate is closed and the court does not have a duty to audit or make an inquiry.

IF, AT ANY TIME BEFORE THE ESTATE IS CLOSED, YOU HAVE REASON TO BELIEVE THAT THE ADMINISTRATION OF

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THE ESTATE SHOULD BE SUPERVISED BY THE COURT, YOU HAVE THE RIGHT TO PETITION THE COURT FOR SUPERVISED ADMINISTRATION.

IF YOU DO NOT UNDERSTAND THIS NOTICE, YOU SHOULD ASK YOUR ATTORNEY TO EXPLAIN IT TO YOU.

The personal representative's address is _____, and telephone number is _____. The attorney for the personal representative is _____, whose address is _____ and telephone number is _____.

Dated at _____, Indiana, this _____ day of _____, ~~19__~~. **20__.**

CLERK OF THE _____ COURT

SECTION 78. IC 31-16-12.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A court that receives a petition under ~~section 1~~ **section 2** of this chapter shall send an order requiring the department of state revenue to determine the obligor's eligibility for a state income tax refund, whether the obligor filed a joint state income tax return, and if the obligor filed a joint state income tax return, the name and address of the individual with whom the obligor filed the joint state income tax return, if the court preliminarily determines that probable cause exists to believe that the obligor named in the petition:

(1) was at least one thousand five hundred dollars ($1,500) in arrears on child support payments at the time the custodial parent filed the petition under section 2 of this chapter; and

(2) has intentionally violated the terms of the most recent support order.

(b) The department of state revenue, upon receiving an order under subsection (a), shall notify the court whether the obligor named in the order:

(1) is eligible for a state income tax refund; and

(2) has filed a joint state income tax return, and if the obligor has filed a joint state income tax return, the name and address of the individual with whom the obligor filed the joint state income tax return.

SECTION 79. IC 31-34-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with

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necessary food, clothing, shelter, medical care, education, or supervision; and

(2) the child needs care, treatment, or rehabilitation that: ~~the child.~~

(A) **the child** is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 80. IC 31-34-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's physical or mental health is seriously endangered due to injury by the act or omission of the child's parent, guardian, or custodian; and

(2) the child needs care, treatment, or rehabilitation that: ~~the child.~~

(A) **the child** is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) Evidence that the illegal manufacture of a drug or controlled substance is occurring on property where a child resides creates a rebuttable presumption that the child's physical or mental health is seriously endangered.

SECTION 81. IC 31-34-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's parent, guardian, or custodian allows the child to participate in an obscene performance (as defined by IC 35-49-2-2 or IC 35-49-3-2); and

(2) the child needs care, treatment, or rehabilitation that: ~~the child.~~

(A) **the child** is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 82. IC 31-34-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's parent, guardian, or custodian allows the child to commit a sex offense prohibited by IC 35-45-4; and

(2) the child needs care, treatment, or rehabilitation that: ~~the child.~~

(A) **the child** is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

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SECTION 83. IC 31-34-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child substantially endangers the child's own health or the health of another individual; and

(2) the child needs care, treatment, or rehabilitation that: ~~the child:~~

(A) **the child** is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 84. IC 31-34-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's parent, guardian, or custodian fails to participate in a disciplinary proceeding in connection with the student's improper behavior, as provided for by IC 20-8.1-5.1-19, if the behavior of the student has been repeatedly disruptive in the school; and

(2) the child needs care, treatment, or rehabilitation that: ~~the child:~~

(A) **the child** is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 85. IC 31-34-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

(1) the child:

(A) has an injury;

(B) has abnormal physical or psychological development; or

(C) is at a substantial risk of a life threatening condition;

that arises or is substantially aggravated because the child's mother used alcohol, a controlled substance, or a legend drug during pregnancy; and

(2) the child needs care, treatment, or rehabilitation that: ~~the child:~~

(A) **the child** is not receiving; or

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 86. IC 31-40-2-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.7. (a) A person may pay a monthly probation user's fee under section 1 or 1.5 of this chapter before the date the payment is required to be made without obtaining the**

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prior approval of a court or a probation department. However, if a delinquent child is discharged from probation before the date the delinquent child was scheduled to be released from probation, any monthly probation user's fee paid in advance for the delinquent child may not be refunded.

(b) A probation department may petition a court to:

(1) impose a probation user's fee on a person; or

(2) increase a person's probation user's fee;

under section 1 or 1.5 of this chapter if the financial ability of the person to pay a probation user's fee changes while the person is on probation.

(c) An order to pay a probation user's fee under section 1 or 1.5 of this chapter:

(1) is a judgment lien that:

(A) attaches to the property of the person subject to the order;

(B) may be perfected;

(C) may be enforced to satisfy any payment that is delinquent under section 1 or 1.5 of this chapter; and

(D) expires;

in the same manner as a judgment lien created in a civil proceeding;

(2) is not discharged by the completion of the person's probationary period or other sentence imposed on the person; and

(3) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5.

(d) A delinquent child placed on probation for more than one (1) delinquent act:

(1) may be required to pay more than one (1) initial probation user's fee; and

(2) may not be required to pay more than one (1) monthly probation user's fee per month;

to either the probation department or the clerk of the court.

(e) If a court orders a person to pay a probation user's fee under section 1 or 1.5 of this chapter, the court may garnish the wages, salary, and other income earned by the person to enforce the order.

(f) If:

(1) a person is delinquent in paying the person's probation user's fees required under section 1 or 1.5 of this chapter; and

(2) the person's driver's license or permit has been suspended or revoked or the person has never been issued a driver's

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license or permit;

the court may order the bureau of motor vehicles to not issue a driver's license or permit to the person until the person has paid the person's delinquent probation user's fees.

SECTION 87. IC 32-25-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The following are subject to this article and to declarations and bylaws of associations of co-owners adopted under this article:

(1) Condominium unit owners.
(2) Tenants of condominium unit owners.
(3) Employees of condominium unit owners.
(4) Employees of tenants of condominium owners.
(5) Any other persons that in any manner use property or any part of property submitted to this article.

(b) All agreements, decisions, and determinations lawfully made by an association of co-owners in accordance with the voting percentages established in:

(1) this ~~chapter,~~ **article;**
(2) the declaration; or
(3) the bylaws;

are binding on all condominium unit owners.

SECTION 88. IC 32-25-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. "Common expenses" means:

(1) all sums lawfully assessed against the co-owners by the association of co-owners;
(2) expenses of:
  (A) administration;
  (B) maintenance;
  (C) repair; or
  (D) replacement;
of the common areas and facilities;
(3) expenses agreed upon as common expenses by the association of co-owners; and
(4) expenses declared common expenses by:
  (A) this ~~chapter,~~ **article;**
  (B) the declaration; or
  (C) the bylaws.

SECTION 89. IC 32-25-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. "Condominium" means real estate:

(1) lawfully subjected to this ~~chapter~~ **article** by the recordation of

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condominium instruments; and

(2) with respect to which the undivided interests in the common areas and facilities are vested in the condominium unit owners.

SECTION 90. IC 32-29-1-11, AS AMENDED BY P.L.122-2003, SECTION 1, AND AS AMENDED BY P.L.151-2003, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) This chapter does not limit:

(1) the right to assign, mortgage, or pledge the rents and profits arising from real estate;

(2) the right of an assignee, a mortgagee, or a pledgee to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge; or

(3) the power of a court of equity to appoint a receiver to take charge of real estate to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge.

(b) A person may enforce an assignment, a mortgage, or a pledge of rents and profits arising from real property:

(1) whether the person has or does not have possession of the real estate; and

(2) regardless of the:

(A) adequacy of the security; or

(B) solvency of the assignor, mortgagor, or pledgor.

(c) If a person:

(1) enforces an assignment, a mortgage, or a pledge of rents and profits arising from real estate; and

(2) does not have possession of the real estate;

the obligations of a mortgagee in possession of real estate may not be imposed on the holder of the assignment, mortgage, or pledge.

(d) *Except for those instances involving liens defined in IC 32-28-3-1, a* mortgagee seeking equitable subrogation with respect to a lien may not be denied equitable subrogation solely because:

(1) the mortgagee:

(A) is engaged in the business of lending; and

(B) had constructive notice of the intervening lien over which the mortgagee seeks to assert priority;

(2) the lien for which the mortgagee seeks to be subrogated was released; or

(3) the mortgagee obtained a title insurance policy.

(e) Subsection (d) does not apply to a municipal sewer lien under IC 36-9-23 *or a mechanic's lien under IC 32-28-3-1.*

SECTION 91. IC 33-28-4-7 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The circuit court shall appoint a person to fill a vacancy, or to act for a jury commissioner, as the case may require, if:

(1) a vacancy occurs in the office of jury commissioner;

(2) a jury commissioner fails to act when required; or

(3) illness or any other cause renders a jury commissioner unable to act.

(b) A person appointed under subsection (a):

(1) must possess the qualifications required for jury commissioners;

(2) must be an adherent of the same political party as is the commissioner in whose stead the person is appointed to serve; **and**

(3) shall take the oath required by this chapter.

(c) For the time actually employed in the performance of jury commissioner's duties, each jury commissioner shall be allowed a per diem to be fixed by the court and paid out of the county treasury upon the warrant of the county auditor.

SECTION 92. IC 33-28-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person shall be excused from acting as a juror if the person:

(1) is at least sixty-five (65) years of age;

(2) is a member in active service of the armed forces of the United States;

(3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:

(A) the United States;

(B) Indiana; or

(C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

(4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

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(11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A);

and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections ~~(c),~~ **(h),** ~~(d),~~ **(i),** and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for an

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offense; or

(2) after the person has had the person's rights restored following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (i) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 93. IC 33-30-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** A county

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court is established in ~~each county, except in~~ **the following counties:**

(1) Floyd County.

(2) Madison County.

(3) Montgomery County.

(b) However, a county ~~for which.~~ **court listed in subsection (a) is abolished if:**

(1) IC 33-33 provides a small claims docket of the circuit court;

(2) IC 33-33 provides a small claims docket of the superior court; or

(3) IC 33-34 provides a small claims court;

for the county in which the county court was established.

SECTION 94. IC 33-30-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~Notwithstanding section 1 of this chapter,~~ Lake County does not have a county court. However, the county division of the superior court of Lake County shall maintain the dockets described in IC 33-30-5-1.

SECTION 95. IC 33-33-22-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. A county court is established for Floyd County under IC 33-30-2-1.**

SECTION 96. IC 33-33-48-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10 (a) The Madison superior court has:**

(1) original and appellate jurisdiction, concurrent and coextensive with the Madison circuit court, in all civil, probate, and criminal cases; and

(2) jurisdiction concurrent and coextensive with the circuit court in all cases of appeal from the board of county commissioners and city courts.

(b) The Madison superior court has original and exclusive juvenile jurisdiction.

SECTION 97. IC 33-33-48-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. A county court is established for Madison County under IC 33-30-2-1.**

SECTION 98. IC 33-33-49-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Each judge of the court shall be elected for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A

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candidate for judge shall run at large for the office of judge of the court and not as a candidate for judge of a particular room or division of the court.

(b) **Beginning with the primary election held in 1996 and every six (6) years thereafter, a political party may nominate not more than eight (8) candidates for judge of the court.** Beginning with the primary election held in 2000 and every six (6) years thereafter, a political party may nominate not more than nine (9) candidates for judge of the court. The candidates shall be voted on at the general election. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(c) The names of the party candidates nominated and properly certified to the Marion County election board, along with the names of other candidates who have qualified, shall be placed on the ballot at the general election in the form prescribed by IC 3-11-2. **Beginning with the 1996 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for fifteen (15) candidates for judge of the court.** Beginning with the 2000 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for seventeen (17) candidates for judge of the court.

(d) The candidates for judge of the court receiving the highest number of votes shall be elected to the vacancies. The names of the candidates elected as judges of the court shall be certified to the county election board as provided by law.

SECTION 99. IC 33-33-54-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. A county court is established for Montgomery County under IC 33-30-2-1.**

SECTION 100. IC 33-33-55-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The Morgan superior court **has** concurrent jurisdiction, both original and appellate, with the Morgan circuit court in all civil actions and proceedings at law and in equity and in all criminal and probate matters, actions, and proceedings of which the Morgan circuit court has jurisdiction. However, the Morgan circuit court and one (1) judge of the Morgan superior court have exclusive jurisdiction in all juvenile matters, actions, and proceedings.

SECTION 101. IC 33-33-58-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The Ohio and Switzerland superior ~~superior~~ court shall, during each calendar year, appoint one (1) resident of Ohio County and one (1) resident of

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Switzerland County to act as jury commissioners for the superior court. The jury commissioners shall:

(1) be appointed by a judge of the superior court;

(2) be qualified to act as jury commissioners; and

(3) prepare and draw the jury for the superior court;

in the same manner as is required for jury commissioners of circuit courts in Ohio and Switzerland counties. The clerks of the circuit courts of Ohio and Switzerland counties and the sheriffs of Ohio and Switzerland counties shall issue and serve process for the superior court in relation to jury selection and summoning in the same manner as for those circuit courts. The superior court may order the time when jurors must attend court and may order the selection and summoning of other jurors for the superior court whenever necessary.

SECTION 102. IC 33-33-65-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The Posey superior court has ~~a standard small claims and misdemeanor division.~~ **the same jurisdiction as the Posey circuit court.**

SECTION 103. IC 33-33-71-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. The commission shall submit with the list of five (5) nominees to the governor its written evaluation of the qualifications of each candidate, and the names and written evaluations shall be publicly disclosed. Every eligible candidate whose name was not submitted to the governor is entitled to access to any evaluation of the ~~cnadidate~~ **candidate** by the commission and the right to make the evaluation public. Otherwise, the evaluation, including the names of the candidates applying for the office, shall remain confidential. If the commission determines that there are less than five (5) persons qualified under section 40 of this chapter, the commission must submit a lesser number under section 40 of this chapter.

SECTION 104. IC 33-34-8-1, AS AMENDED BY P.L.85-2004, SECTION 15, AND AS AMENDED BY P.L.95-2004, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

(1) A township docket fee of five dollars ($5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

(2) The bailiff's service of process by registered or certified mail fee of thirteen dollars ($13) for each service.

(3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars ($13) for each service.

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(4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.
(5) A redocketing fee, if any, of five dollars ($5).
(6) A document storage fee under IC 33-37-5-20.
(7) An automated record keeping fee under IC 33-37-5-21.
(8) A late fee, if any, under IC 33-37-5-22.
(9) A judicial administration fee under IC 33-37-5-21.2.
~~*(9)*~~ **(10)** *A judicial insurance adjustment fee under IC 33-37-5-25.*

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 105. IC 33-37-4-1, AS AMENDED BY P.L.85-2004, SECTION 16, AND AS AMENDED BY P.L.95-2004, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars ($120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A marijuana eradication program fee (IC 33-37-5-7).
(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
(7) A child abuse prevention fee (IC 33-37-5-12).
(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
(9) A highway work zone fee (IC 33-37-5-14).
(10) A deferred prosecution fee (IC 33-37-5-17).
(11) A document storage fee (IC 33-37-5-20).
(12) An automated record keeping fee (IC 33-37-5-21).
(13) A late payment fee (IC 33-37-5-22).

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(14) A sexual assault victims assistance fee (IC 33-37-5-23).

(15) A judicial administration fee under IC 33-37-5-21.2.

~~*(15)*~~ **(16)** *A judicial insurance adjustment fee under IC 33-37-5-25.*

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of fifty dollars ($50); and

(2) a monthly user's fee of ten dollars ($10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

(1) The pretrial diversion fee.

(2) The marijuana eradication program fee.

(3) The alcohol and drug services program user fee.

(4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) The clerk shall apply the partial payment to general court costs.

(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.

(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 106. IC 33-37-4-2, AS AMENDED BY P.L.85-2004, SECTION 17, AND AS AMENDED BY P.L.95-2004, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in

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subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or

(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars ($70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) A law enforcement continuing education program fee IC 33-37-5-8(c)).

(4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(5) A highway work zone fee (IC 33-37-5-14).

(6) A deferred prosecution fee (IC 33-37-5-17).

(7) A jury fee ~~(IC 33-19-6-17).~~ (IC 33-37-5-19).

(8) A document storage fee (IC 33-37-5-20).

(9) An automated record keeping fee (IC 33-37-5-21).

(10) A late payment fee (IC 33-37-5-22).

(11) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).

~~(11)~~ **(12)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

(1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

(3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

(1) The defendant was charged with an ordinance violation subject to IC 33-36.

(2) The defendant denied the violation under IC 33-36-3.

(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).

(4) The defendant was tried and the court entered judgment for the

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defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars ($52); and

(2) a monthly user's fee not to exceed ten dollars ($10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of ~~IC 34-28-5-4~~ **IC 34-28-5-5** and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 107. IC 33-37-4-3, AS AMENDED BY P.L.85-2004, SECTION 18, AND AS AMENDED BY P.L.95-2004, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars ($120) for each action filed under any of the following

(1) IC 31-34 (children in need of services).

(2) IC 31-37 (delinquent children).

(3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(6) A document storage fee (IC 33-37-5-20).

(7) An automated record keeping fee (IC 33-37-5-21).

(8) A late payment fee (IC 33-37-5-22).

(9) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).

~~(9)~~ **(10)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are

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collected:

(1) The marijuana eradication program fee (IC 33-37-5-7).

(2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 108. IC 33-37-4-4, AS AMENDED BY P.L.85-2004, SECTION 19, AND AS AMENDED BY P.L.95-2004, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars ($100) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).

(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).

(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

(4) Proceedings in paternity under IC 31-14.

(5) Proceedings in small claims court under IC 33-34.

(6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

(5) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).

~~(5)~~ **(6)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*

SECTION 109. IC 33-37-4-5, AS AMENDED BY P.L.85-2004, SECTION 20, AND AS AMENDED BY P.L.95-2004, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars ($35). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

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(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A document storage fee (IC 33-37-5-20).
(3) An automated record keeping fee (IC 33-37-5-21).
(4) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).
~~(4)~~ **(5)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*
(c) This section expires July 1, 2005.

SECTION 110. IC 33-37-4-6, AS AMENDED BY P.L.85-2004, SECTION 21, AND AS AMENDED BY P.L.95-2004, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For each small claims action, the clerk shall collect from the party filing the action both of the following fees:
(1) A small claims costs fee of thirty-five dollars ($35).
(2) A small claims service fee of five dollars ($5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:
(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A document storage fee (IC 33-37-5-20).
(3) An automated record keeping fee (IC 33-37-5-21).
(4) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).
~~(4)~~ **(5)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*
(c) This section applies after June 30, 2005.

SECTION 111. IC 33-37-4-7, AS AMENDED BY P.L.85-2004, SECTION 22, AND AS AMENDED BY P.L.95-2004, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars ($120) for each action filed under any of the following:
(1) IC 6-4.1-5 (determination of inheritance tax).
(2) IC 29 (probate).
(3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:
(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A document storage fee (IC 33-37-5-20).

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(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).

~~(4)~~ **(5)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 112. IC 33-37-5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) This subsection does not apply to the following:

(1) A criminal proceeding.

(2) A proceeding for an infraction violation.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in ~~IC 33-19-1-1,~~ **IC 33-37-1-1,** the clerk shall collect a judicial insurance adjustment fee of one dollar ($1).

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have violated an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a judicial insurance adjustment fee of one dollar ($1).

SECTION 113. IC 33-37-7-2, AS AMENDED BY P.L.85-2004, SECTION 25, AND AS AMENDED BY P.L.95-2004, SECTION 13, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in

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IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

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(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.

~~(i)~~ **(j)** *The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.*

~~(j) This section applies after June 30, 2005.~~

SECTION 114. IC 33-37-7-8, AS AMENDED BY P.L.85-2004, SECTION 27, AND AS AMENDED BY P.L.95-2004, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

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(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-4(a) (civil costs fees).
(4) IC 33-37-4-6(a)(1) (small claims costs fees).
(5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:
(1) IC 33-37-4-1(a) (criminal costs fees).
(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-4(a) (civil costs fees).
(4) IC 33-37-4-6(a)(1) (small claims costs fees).
(5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:
(1) IC 33-37-4-1(a) (criminal costs fees).
(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-4(a) (civil costs fees).
(4) IC 33-37-4-6(a)(1) (small claims costs fees).
(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:
(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:
(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6),

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IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.

~~(g)~~ **(h)** *The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.*

~~(h) This section applies after June 30, 2005.~~

SECTION 115. IC 33-38-5-8.2, AS ADDED BY P.L.95-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.2. (a) As used in this section, "account" refers to the judicial branch ~~health care~~ **insurance** adjustment account established by subsection (d).

(b) As used in this section, "employees of the judicial branch" includes the following:

(1) Each judge described in section 6 of this chapter.
(2) Each magistrate:
(A) described in section 7 of this chapter; and
(B) receiving a salary under IC 33-23-5-10.
(3) Each justice and judge described in section 8 of this chapter.
(4) The judge described in IC 33-26.
(5) A prosecuting attorney whose entire salary is paid by the state.

(c) Employees of the judicial branch are entitled to a health care adjustment in any year that the governor provides a health care adjustment to employees of the executive branch.

(d) The judicial branch insurance adjustment account within the state general fund is established for the purpose of providing health care adjustments under subsection (c). The account shall be administered by the supreme court.

(e) The expenses of administering the account shall be paid from

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money in the account.

(f) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(g) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(h) Money in the account is annually appropriated to the supreme court for the purpose of this section.

(i) If the funds appropriated for compliance with this section are insufficient, there is annually appropriated from the state general fund sufficient funds to carry out the purpose of this section.

SECTION 116. IC 33-38-13-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. ~~A master may issue a subpoena for:~~

~~(1) the attendance of witnesses;~~

~~(2) the production of documentary evidence; or~~

~~(3) discovery;~~

~~in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.~~ **All papers and pleadings filed with the office of the chairman of the commission are considered to have been filed with the commission.**

SECTION 117. IC 33-42-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~A notary public who is a stockholder or an officer of a cemetery association whose rules or constitution prohibit an officer or a stockholder from becoming a beneficiary from the sale of lots by the cemetery association may take acknowledgments of sales of lots.~~ **The manager, officers, and employees of a federal land bank association located in Indiana may become and act as a notary public in the business of the association to take acknowledgments of deeds and real estate mortgages and to take and certify affidavits.**

SECTION 118. IC 34-11-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies if a plaintiff commences an action and:

(1) the plaintiff fails in the action from any cause except ~~(1)~~ negligence in the prosecution of the action;

(2) the action abates or is defeated by the death of a party; or

(3) a judgment is arrested or reversed on appeal.

(b) If subsection (a) applies, a new action may be brought not later than the later of:

(1) three (3) years after the date of the determination under

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subsection (a); or

(2) the last date an action could have been commenced under the statute of limitations governing the original action;

and be considered a continuation of the original action commenced by the plaintiff.

SECTION 119. IC 34-30-2-125.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 125.5. ~~IC 29-3-8.5-9~~ **IC 29-3-8.5-8** (Concerning a volunteer advocate for seniors).

SECTION 120. IC 35-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A warrant of arrest shall:

(1) be in writing;

(2) specify the name of the person to be arrested, or if his name is unknown, shall designate such person by any name or description by which he can be identified with reasonable certainty;

(3) set forth the nature of the offense for which the warrant is issued;

(4) state the date and county of issuance;

(5) be signed by the clerk or the judge of the court with the title of his office;

(6) command that the person against whom the indictment or information was filed be arrested and brought before the court issuing the warrant, without unnecessary delay;

(7) specify the amount of bail, if any; and

(8) be directed to the sheriff of the county.

(b) An arrest warrant may be in substantially the following form:

TO: _____

You are hereby commanded to arrest _____ forthwith, and hold that person to bail in the sum of _____ dollars, to answer in the _____ Court of _____ County, in the State of Indiana, an information or indictment for _____.

And for want of bail commit him to the jail of the County, and thereafter without unnecessary delay to bring him before the said court.

IN WITNESS WHEREOF, I, _____ (Clerk/Judge) of said Court, hereto affix the seal thereof, and subscribe my name at _____ this _____ day of _____ A.D. ~~19__~~. **20__.**

_____

Clerk or Judge of the Court

SECTION 121. IC 35-33-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) When an indictment or information is filed against a person charging him with

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a misdemeanor, the court may, in lieu of issuing an arrest warrant under IC 35-33-2, issue a summons. The summons must set forth substantially the nature of the offense, and command the accused person to appear before the court at a stated time and place. However, the date set by the court must be at least seven (7) days after the issuance of the summons. The summons may be served in the same manner as the summons in a civil action.

(b) If the person summoned fails, without good cause, to appear as commanded by the summons and the court has determined that there is probable cause to believe that a crime (other than failure to appear) has been committed, the court shall issue a warrant of arrest.

(c) If after issuing a summons the court:

(1) is satisfied that the person will not appear as commanded by the summons; and

(2) has determined that there is probable cause that a crime (other than failure to appear) has been committed;

it may at once issue a warrant of arrest.

(d) The summons may be in substantially the following form:

STATE OF INDIANA) IN THE _____ COURT
)
vs.) OF _____ COUNTY
)
_____)
Defendant) CAUSE NO. _____

SUMMONS

THE STATE OF INDIANA TO
THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED, to appear before the above designated Court at _____, _____, _____ at _____ ___.m. on (day) _____, _____, ~~19___~~, **20___,** with respect to an (information or indictment) for _____.

If you do not so appear, an application may be made for the Issuance of a Warrant for your arrest.

ISSUED: _____ ___,
~~19___~~ **20___**
in
(City or County) _____, ____
BY THE CLERK OF SAID COURT:
_____
CLERK

(e) When any law enforcement officer in the state serves a summons on a person, he shall file a return of service with the court issuing the

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summons. The return shall be in substantially the following form:

RETURN OF SERVICE

I hereby certify that I served this summons upon the above named defendant by delivering a copy of it and of the Information to the defendant personally or by certified mail return receipt requested, on _____ _____, ~~19___~~, **20___,** at ____, _____.

DATED: _____ ___, ~~19___~~. **20___.**

(Signature) _____

_____

LAW ENFORCEMENT AGENCY

(f) In lieu of arresting a person who has allegedly committed a misdemeanor (other than a traffic misdemeanor) in his presence, a law enforcement officer may issue a summons and promise to appear. The summons must set forth substantially the nature of the offense and direct the person to appear before a court at a stated place and time.

(g) The summons and promise to appear may be in substantially the following form:

STATE OF INDIANA	)	IN THE _____ COURT
	)	
vs.	)	OF _____ COUNTY
	)	
_____	)	
Defendant	)	

SUMMONS AND PROMISE TO APPEAR

YOU ARE HEREBY SUMMONED, to appear before the above designated Court at _____

(Address)

at _____ ___ .m. on _____ _____,

Month Day

~~19___~~, **20___,** in respect to the charge of _____

_____.

If you do not so appear, an application may be made for the issuance of a warrant for your arrest.

ISSUED:_____, ~~19___~~, **20 ____,**

in

_____, Indiana

(City or County)

BY THE UNDERSIGNED LAW ENFORCEMENT OFFICER:

_____

Officer's Signature

I.D. No. _____

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Div. Dist. _____

Police Agency _____

COURT APPEARANCE

I promise to appear in court at the time and place designated above, or be subject to arrest.

Signature _____

YOUR SIGNATURE IS NOT AN ADMISSION OF GUILT.

(h) When any law enforcement officer issues a summons and promise to appear, he shall:

(1) promptly file the summons and promise to appear and the certificate of service with the court designated in the summons and promise to appear; and

(2) provide the prosecuting attorney with a copy thereof.

SECTION 122. IC 35-33-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in section 8 of this chapter, no warrant for search or arrest shall be issued until there is filed with the judge an affidavit:

(1) particularly describing:

(A) the house or place to be searched and the things to be searched for; or

(B) particularly describing the person to be arrested;

(2) alleging substantially the offense in relation thereto and that the affiant believes and has good cause to believe that:

(A) the things as are to be searched for are there concealed; or

(B) the person to be arrested committed the offense; and

(3) setting forth the facts then in knowledge of the affiant or information based on hearsay, constituting the probable cause.

(b) When based on hearsay, the affidavit must either:

(1) contain reliable information establishing the credibility of the source and of each of the declarants of the hearsay and establishing that there is a factual basis for the information furnished; or

(2) contain information that establishes that the totality of the circumstances corroborates the hearsay.

(c) An affidavit for search substantially in the following form shall be treated as sufficient:

STATE OF INDIANA)

) SS:

COUNTY OF _____)

A B swears (or affirms, as the case may be) that he believes and has good cause to believe (here set forth the facts and information constituting the probable cause) that (here describe the things to be searched for and the offense in

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relation thereto) are concealed in or about the (here describe the house or place) of C D, situated in the county of _____, in said state.

Subscribed and sworn to before me this _____ day of _____ ~~19__~~. **20__.**

SECTION 123. IC 35-33-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A search warrant in substantially the following form shall be sufficient:

STATE OF INDIANA)
) SS:
COUNTY OF _____) IN THE _____ COUNTY OF
_____

To _____ (herein insert the name, department or classification of the law enforcement officer to whom it is addressed)

You are authorized and ordered, in the name of the State of Indiana, with the necessary and proper assistance to enter into or upon _____ (here describe the place to be searched), and there diligently search for _____ (here describe property which is the subject of the search). You are ordered to seize such property, or any part thereof, found on such search.

Dated this ____ day of _____, ~~19___~~, **20___,** at the hour of ____M.

_____
(Signature of Judge)Executed this ___ day of _____, ~~19___~~, **20___,** at the hour of ____ ___M.

_____(Signature of Law Enforcement Officer)

SECTION 124. IC 35-34-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The indictment or information shall be in writing and allege the commission of an offense by:

(1) stating the title of the action and the name of the court in which the indictment or information is filed;

(2) stating the name of the offense in the words of the statute or any other words conveying the same meaning;

(3) citing the statutory provision alleged to have been violated, except that any failure to include such a citation or any error in such a citation does not constitute grounds for reversal of a conviction where the defendant was not otherwise misled as to the nature of the charges against ~~him,~~ **the defendant;**

(4) setting forth the nature and elements of the offense charged in

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plain and concise language without unnecessary repetition;

(5) stating the date of the offense with sufficient particularity to show that the offense was committed within the period of limitations applicable to that offense;

(6) stating the time of the offense as definitely as can be done if time is of the essence of the offense;

(7) stating the place of the offense with sufficient particularity to show that the offense was committed within the jurisdiction of the court where the charge is to be filed;

(8) stating the place of the offense as definitely as can be done if the place is of the essence of the offense; and

(9) stating the name of every defendant, if known, and if not known, by designating the defendant by any name or description by which he can be identified with reasonable certainty.

(b) An indictment shall be signed by:

(1) the foreman or five (5) members of the grand jury; and

(2) the prosecuting attorney or his deputy.

An information shall be signed by the prosecuting attorney or his deputy and sworn to or affirmed by him or any other person.

(c) An indictment or information shall have stated upon it the names of all the material witnesses. Other witnesses may afterwards be subpoenaed by the state, but unless the name of a witness is stated on the indictment or information, no continuance shall be granted to the state due to the absence of the witness.

(d) The indictment or information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It need not contain a formal commencement, a formal conclusion, or any other matter not necessary to the statement. Presumptions of law and matters of which judicial notice is taken need not be stated.

(e) The indictment may be substantially in the following form:

IN THE _____ COURT OF INDIANA, ~~19____~~ **20____**

STATE OF INDIANA

vs. CAUSE NUMBER _____

A _____ B _____

The grand jury of the county of _____ upon their oath or affirmation do present that AB, on the _____ day of _____ ~~19____~~ **20____** at the county of _____ in the state of Indiana (HERE SET FORTH THE OFFENSE CHARGED).

(f) The information may be substantially in the same form as the indictment, substituting for the words, "the grand jury of the county of _____, upon their oath or affirmation so present" the following:

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"CD, being duly sworn on his oath or having affirmed, says." It is not necessary in an information to state the reason why the proceeding is by information rather than indictment.

(g) This section applies to a traffic offense (as defined in IC 9-30-3-5) if the traffic offense is:

(1) a felony; or

(2) a misdemeanor.

SECTION 125. IC 35-37-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):

(1) Sex crimes (IC 35-42-4).

(2) Battery upon a child ~~(IC 35-42-2-1(2)(B)).~~ **(IC 35-42-2-1(a)(2)(B)).**

(3) Kidnapping and confinement (IC 35-42-3).

(4) Incest (IC 35-46-1-3).

(5) Neglect of a dependent (IC 35-46-1-4).

(6) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (5).

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):

(1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).

(2) A sex crime (IC 35-42-4).

(3) Battery (IC 35-42-2-1).

(4) Kidnapping, confinement, or interference with custody (IC 35-42-3).

(5) Home improvement fraud ~~(IC 35-42-6).~~ **(IC 35-43-6).**

(6) Fraud (IC 35-43-5).

(7) Identity deception (IC 35-43-5-3.5).

(8) Theft (IC 35-43-4-2).

(9) Conversion (IC 35-43-4-3).

(10) Neglect of a dependent (IC 35-46-1-4).

(c) As used in this section, "protected person" means:

(1) a child who is less than fourteen (14) years of age;

(2) a mentally disabled individual who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

(A) is manifested before the individual is eighteen (18) years of age;

(B) is likely to continue indefinitely;

(C) constitutes a substantial impairment of the individual's

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ability to function normally in society; and

(D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or

(3) an individual who is:

(A) at least eighteen (18) years of age; and

(B) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of:

(i) managing or directing the management of the individual's property; or

(ii) providing or directing the provision of self-care.

(d) A statement or videotape that:

(1) is made by a person who at the time of trial is a protected person;

(2) concerns an act that is a material element of an offense listed in subsection (a) **or (b)** that was allegedly committed against the person; and

(3) is not otherwise admissible in evidence;

is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (e) are met.

(e) A statement or videotape described in subsection (d) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:

(1) The court finds, in a hearing:

(A) conducted outside the presence of the jury; and

(B) attended by the protected person;

that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.

(2) The protected person:

(A) testifies at the trial; or

(B) is found by the court to be unavailable as a witness for one (1) of the following reasons:

(i) From the testimony of a psychiatrist, physician, or psychologist, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.

(ii) The protected person cannot participate in the trial for medical reasons.

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(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.

(f) If a protected person is unavailable to testify at the trial for a reason listed in subsection (e)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:

(1) at the hearing described in subsection (e)(1); or

(2) when the statement or videotape was made.

(g) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:

(1) the prosecuting attorney's intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape.

(h) If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:

(1) The mental and physical age of the person making the statement or videotape.

(2) The nature of the statement or videotape.

(3) The circumstances under which the statement or videotape was made.

(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:

(1) transcript; or

(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

SECTION 126. IC 35-37-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies to a criminal action under the following:

(1) Sex crimes (IC 35-42-4).

(2) Battery upon a child ~~(IC 35-42-2-1(2)(B)).~~ **(IC 35-42-2-1(a)(2)(B)).**

(3) Kidnapping and confinement (IC 35-42-3).

(4) Incest (IC 35-46-1-3).

(5) Neglect of a dependent (IC 35-46-1-4).

(6) An attempt under IC 35-41-5-1 for an offense listed in

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subdivisions (1) through (5).

(b) As used in this section, "protected person" has the meaning set forth in section 6 of this chapter.

(c) On the motion of the prosecuting attorney, the court may order that the testimony of a protected person be taken in a room other than the courtroom, and that the questioning of the protected person by the prosecution and the defense be transmitted using a two-way closed circuit television arrangement that:

(1) allows the protected person to see the accused and the trier of fact; and

(2) allows the accused and the trier of fact to see and hear the protected person.

(d) On the motion of the prosecuting attorney or the defendant, the court may order that the testimony of a protected person be videotaped for use at trial. The videotaping of the testimony of a protected person under this subsection must meet the requirements of subsection (c).

(e) The court may not make an order under subsection (c) or (d) unless:

(1) the testimony to be taken is the testimony of a protected person who:

(A) is the alleged victim of an offense listed in subsection (a) for which the defendant is being tried or is a witness in a trial for an offense listed in subsection (a); and

(B) is found by the court to be a protected person who should be permitted to testify outside the courtroom because:

(i) the court finds from the testimony of a psychiatrist, physician, or psychologist and any other evidence that the protected person's testifying in the physical presence of the defendant would cause the protected person to suffer serious emotional harm and the court finds that the protected person could not reasonably communicate in the physical presence of the defendant to the trier of fact;

(ii) a physician has certified that the protected person cannot be present in the courtroom for medical reasons; or

(iii) evidence has been introduced concerning the effect of the protected person's testifying in the physical presence of the defendant, and the court finds that it is more likely than not that the protected person's testifying in the physical presence of the defendant creates a substantial likelihood of emotional or mental harm to the protected person;

(2) the prosecuting attorney has informed the defendant and the defendant's attorney of the intention to have the protected person

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testify outside the courtroom; and

(3) the prosecuting attorney informed the defendant and the defendant's attorney under subdivision (2) at least ten (10) days before the trial of the prosecuting attorney's intention to have the protected person testify outside the courtroom.

(f) If the court makes an order under subsection (c), only the following persons may be in the same room as the protected person during the protected person's testimony:

(1) A defense attorney if:

(A) the defendant is represented by the defense attorney; and

(B) the prosecuting attorney is also in the same room.

(2) The prosecuting attorney if:

(A) the defendant is represented by a defense attorney; and

(B) the defense attorney is also in the same room.

(3) Persons necessary to operate the closed circuit television equipment.

(4) Persons whose presence the court finds will contribute to the protected person's well-being.

(5) A court bailiff or court representative.

(g) If the court makes an order under subsection (d), only the following persons may be in the same room as the protected person during the protected person's videotaped testimony:

(1) The judge.

(2) The prosecuting attorney.

(3) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).

(4) Persons necessary to operate the electronic equipment.

(5) The court reporter.

(6) Persons whose presence the court finds will contribute to the protected person's well-being.

(7) The defendant, who can observe and hear the testimony of the protected person with the protected person being able to observe or hear the defendant. However, if the defendant is not represented by an attorney, the defendant may question the protected person.

(h) If the court makes an order under subsection (c) or (d), only the following persons may question the protected person:

(1) The prosecuting attorney.

(2) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).

(3) The judge.

SECTION 127. IC 35-37-6-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "covered act" means any of the following offenses or an act that, if committed by a person less than eighteen (18) years of age, would be any of the following offenses if committed by an adult:

(1) A sex crime under IC 35-42-4.

(2) A battery against:

(A) a child under ~~IC 35-42-2-1(2)(B);~~ **IC 35-42-2-1(a)(2)(B);**

(B) a disabled person under ~~IC 35-42-2-1(2)(C);~~ **IC 35-42-2-1(a)(2)(C);**

(C) an endangered adult under ~~IC 35-42-2-1(2)(F);~~ **IC 35-42-2-1(a)(2)(E);** or

(D) a spouse under IC 35-42-2-1.

(3) Neglect of a dependent under IC 35-46-1-4.

(4) Incest (IC 35-46-1-3).

SECTION 128. IC 35-38-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Within three hundred sixty-five (365) days after:

(1) ~~the defendant~~ **a convicted person** begins serving ~~his~~ **the** sentence **imposed on the person;**

(2) a hearing **is held:**

(A) at which the ~~defendant~~ **convicted person** is present; and

(B) of which the prosecuting attorney has been notified; and

(3) ~~obtaining~~ **the court obtains** a report from the department of correction concerning the ~~defendant's~~ **convicted person's** conduct while imprisoned;

the court may reduce or suspend the sentence. The court must incorporate its reasons in the record.

(b) If more than three hundred sixty-five (365) days have elapsed since the ~~defendant~~ **convicted person** began serving the sentence and after a hearing at which the convicted person is present, the court may reduce or suspend the sentence, subject to the approval of the prosecuting attorney. However, if in a sentencing hearing for a ~~defendant~~ **convicted person** conducted after June 30, 2001, the court could have placed the ~~defendant~~ **convicted person** in a community corrections program as an alternative to commitment to the department of correction, the court may modify the ~~defendant's~~ **convicted person's** sentence under this section without the approval of the prosecuting attorney to place the ~~defendant~~ **convicted person** in a community corrections program under IC 35-38-2.6.

(c) The court must give notice of the order to reduce or suspend the sentence under this section to the victim (as defined in IC 35-35-3-1) of the crime for which the ~~defendant~~ **convicted person** is serving the

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sentence.

(d) The court may suspend a sentence for a felony under this section only if suspension is permitted under IC 35-50-2-2.

(e) The court may deny a request to suspend or reduce a sentence under this section without making written findings and conclusions.

(f) Notwithstanding subsections (a) and (b), the court is not required to conduct a hearing before reducing or suspending a sentence if:

(1) the prosecuting attorney has filed with the court an agreement of the reduction or suspension of the sentence; and

(2) the ~~defendant~~ **convicted person** has filed with the court a waiver of the right to be present when the order to reduce or suspend the sentence is considered.

SECTION 129. IC 35-38-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section does not apply to a request to a law enforcement agency for the release or inspection of a limited criminal history to a noncriminal justice organization or individual whenever the subject of the request is described in IC 10-13-3-27(a)(8) or IC 10-13-3-27(a)(12).

(b) A person may petition the state police department to limit access to the person's limited criminal history to criminal justice agencies if more than fifteen (15) years have elapsed since the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last conviction for a crime.

(c) When a petition is filed under subsection (b), the state police department shall not release limited criminal history to noncriminal justice agencies under ~~IC 10-13-5-27.~~ **IC 10-13-3-27.**

SECTION 130. IC 35-42-2-1, AS AMENDED BY P.L.175-2003, SECTION 2, AND AS AMENDED BY P.L.281-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

(A) it results in bodily injury to any other person;

(B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of his official duty;

(C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty; ~~or~~

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(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; *or*

(E) it is committed against a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of his official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who is mentally or physically disabled and is committed by a person having the care of the mentally or physically disabled person, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;

(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty; ~~or~~

(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; *or*

(L) a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer;

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(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;
(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); and
(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2).

(b) For purposes of this section:
(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and
(2) "correctional professional" means a:
(A) probation officer;
(B) parole officer;
(C) community corrections worker; or
(D) home detention officer.

SECTION 131. IC 35-46-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 8. (a) A person at least eighteen (18) years of age who knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, ~~an~~ **the** offense described in subsection (a) is a Class C felony: ~~if:~~
(1) **if:**
(A) the ~~(A)~~ person **committing the offense** is at least twenty-one (21) years of age and knowingly or intentionally furnishes:
(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person **committing the offense** knew or reasonably should have known that the person **furnished the alcoholic beverage** was less than eighteen (18) years of age; or
(ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and
(B) **the** consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause

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of the death of any person; or

(2) **if** the person **committing the offense** ~~is at least eighteen (18) years of age and~~ knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under any of the following:

(A) IC 35-48-4-1.

(B) IC 35-48-4-2.

(C) IC 35-48-4-3.

(D) IC 35-48-4-4.

(E) IC 35-48-4-4.5.

(F) IC 35-48-4-4.6.

(G) IC 35-48-4-5.

SECTION 132. IC 35-46-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. Any person acting in good faith who:

(1) makes or causes to be made a report of neglect, battery, or exploitation under this chapter, ~~IC 35-42-2-1(2)(C),~~ **IC 35-42-2-1(a)(2)(C),** or ~~IC 35-42-2-1(2)(F),~~ **IC 35-42-2-1(a)(2)(E);**

(2) makes or causes to be made photographs or x-rays of a victim of suspected neglect or battery of an endangered adult or a dependent eighteen (18) years of age or older; or

(3) participates in any official proceeding or a proceeding resulting from a report of neglect, battery, or exploitation of an endangered adult or a dependent eighteen (18) years of age or older relating to the subject matter of that report;

is immune from any civil or criminal liability that might otherwise be imposed because of these actions. However, this section does not apply to a person accused of neglect, battery, or exploitation of an endangered adult or a dependent eighteen (18) years of age or older.

SECTION 133. IC 35-47.5-4-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] Sec. 4.5. (a) This section does not apply to a person who is regulated under IC 14-34.

(b) The commission shall adopt rules under IC 4-22-2 to:

(1) govern the use of a regulated explosive; and

(2) establish requirements for the issuance of a license for the use of a regulated explosive.

(c) The commission shall include the following requirements in the rules adopted under subsection (b):

(1) Relicensure every three (3) years after the initial issuance of a license.

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(2) Continuing education as a condition of relicensure.

(3) An application for licensure or relicensure must be submitted to the office on forms approved by the commission.

(4) A fee for licensure and relicensure.

(5) Reciprocal recognition of a license for the use of a regulated explosive issued by another state if the licensure requirements of the other state are substantially similar to the licensure requirements established by the commission.

(d) A person may not use a regulated explosive unless the person has a license issued under this section for the use of a regulated explosive.

(e) The office shall carry out the licensing and relicensing program under the rules adopted by the commission.

(f) As used in this section, "regulated explosive" does not include either of the following:

(1) **Consumer** fireworks (as defined in ~~27 CFR 55.11).~~ **27 CFR 555.11).**

(2) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices.

SECTION 134. IC 35-50-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is

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being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the

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person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; **or**

~~(R) an offense under IC 9-30-5-5 (operating a vehicle while intoxicated causing death) if the person had:~~

~~(i) at least fifteen-hundredths (0.15) gram of alcohol per one hundred (100) milliliters of the person's blood; or at least fifteen-hundredths (0.15) gram of alcohol per two hundred ten (210) liters of the person's breath; or~~

~~(ii) a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or~~

~~(S)~~ **(R)** aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of an offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 135. IC 35-50-5-3, AS AMENDED BY P.L.85-2004, SECTION 54, AND AS AMENDED BY P.L.98-2004, SECTION 157, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in

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subsection (i), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

(1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);

(2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;

(3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;

(4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and

(5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a) or (i) is a judgment lien that:

(1) attaches to the property of the person subject to the order;

(2) may be perfected;

(3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and

(4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:

(1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:

~~(1)~~ *(A)* the amount of the award, if any, paid to the victim under IC 5-2-6.1; and

~~(2)~~ *(B)* the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8; *or*

(2) a probation department that shall forward restitution or part of restitution to:

(A) a victim of a crime;

Copy

(B) a victim's estate; or

(C) the family of a victim who is deceased.

The victim services division of the Indiana criminal justice institute shall deposit the restitution ~~*received*~~ *it receives* under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a) or (i), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

(1) The name and address of the person that is to receive the restitution.

(2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by ~~*IC 33-17-2-3.*~~ *IC 33-32-3-2*. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a) or (i) does not bar a civil action for:

(1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and

(2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a) or (i) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the

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completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.

SECTION 136. IC 36-7-31.3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A tax area must be initially established by resolution:

(1) except as provided in subdivision (2) before July 1, 1999; or

(2) before January 1, 2005, **in the case of:**

(A) ~~in the case of~~ a second class city; or

(B) the city of Marion;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. A tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and

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welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 137. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 4-1-7.1-5; IC 4-4-11-16.1; IC 5-13-12-8.5; IC 6-6-5-7.5; IC 6-6-5.5-15; IC 8-1-8.6; IC 9-18-25-1.6; IC 9-18-25-14; IC 9-18-25-16; IC 12-15-19-9; IC 14-22-12-1.6; IC 21-2-4-7; IC 21-2-11.5-5; IC 21-2-15-13.1; IC 31-40-1-1.7; IC 34-13-1-2; IC 36-9-31-26.

SECTION 138. P.L.66-2004, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 6. (a) As used in this SECTION, "department" refers to the Indiana department of administration established by IC 4-13-1-2.

(b) As used in this SECTION, "preference" refers to an Indiana business preference claimed by a contractor or a business under a preference statute.

(c) As used in this SECTION, "preference statute" refers to either of the following:

(1) IC 4-13.6-6-2.7, as added by this act.

(2) IC 5-22-15-20.5, as added by this act.

(d) The department shall compile and organize a report relating to every contractor or business that claims a preference. The report must include the following information:

(1) A summary of the information that contractors and businesses that claim a preference are required to report under the preference statute.

(2) A summary of the number of contracts awarded to Indiana contractors or businesses under a preference statute. The summary must be broken down by each of the criteria in the preference statute for determining whether a business is an Indiana business.

(3) A statement of issues or questions raised, if any, in the implementation of the preference statutes.

(4) A statement of recommendations, if any, that the department has for changes to the preference statutes.

(5) Any other information the department considers useful in the evaluation of the preference statutes.

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(e) The report described by subsection ~~(c)~~ **(d)** must:

(1) provide the statistical information broken down by fiscal year with the fiscal year ending:

(A) June 30, 2005, being the first year of the report; and

(B) June 30, 2008, being the last year of the report; and

(2) be submitted to the legislative council not later than September 1, 2008, in an electronic format under IC 5-14-6.

(f) This SECTION expires July 1, 2009.

SECTION 139. P.L.90-2004, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 15. (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) As used in this SECTION, "taxpayer" means a nonprofit corporation that is an owner of land and improvements:

(1) that were owned, occupied, and used by the taxpayer to provide youths with the opportunity to play supervised and organized baseball or softball, or both, against other youths during the period preceding the assessment date in 2002 and continuing through the date that this SECTION is effective;

(2) for which a property tax liability was imposed for property taxes first due and payable in 2001, 2002, and 2003 that exceeded eighteen thousand dollars ($18,000), in the aggregate, and was paid in 2003;

(3) that would have qualified for an exemption under IC 6-1.1-10 from property taxes first due and payable in 2003 if the owner had complied with the filing requirements for the exemption in a timely manner; and

(4) that have been granted an exemption under IC 6-1.1-10 from property taxes first due and payable in 2004.

(c) The land and improvements described in subsection (b) are exempt under IC 6-1.1-10-16 from property taxes first due and payable in 2003, notwithstanding that the taxpayer failed to make a timely application for the exemption on or before May 15, 2002.

(d) The taxpayer may file claims with the county auditor for a refund for the amounts paid toward property taxes on the land and improvements described in subsection (b) that were billed to the taxpayer for property taxes first due and payable in 2001, 2002, and 2003. The claim must be filed as set forth in IC 6-1.1-26-1(1) through IC 6-1.1-26-1(3). The claims must present sufficient facts for the county auditor to determine whether the claimant is a person that meets the qualifications described in subsection (b) and the amount that should be refunded to the taxpayer.

(e) Upon receiving a claim filed under this SECTION, the county

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auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the county auditor shall submit the claim under ~~IC 6-1.1-26-3~~ **IC 6-1.1-26-4** to the county board of commissioners for review. The only grounds for disallowing the claim under IC 6-1.1-26-4 are that the claimant is not a person that meets the qualifications described in subsection (b) or that the amount claimed is not the amount due to the taxpayer. If the claim is allowed, the county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION. The amount of the refund must equal the amount of the claim allowed. Notwithstanding IC 6-1.1-26-5, no interest is payable on the refund.

(f) This SECTION expires December 31, 2006.

SECTION 140. P.L.96-2004, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 28. (a) As used in this SECTION, "department" refers to the department of workforce development.

(b) Notwithstanding ~~IC 22-4.1-7-7,~~ **IC 22-4.1-7-8,** as added by ~~this act,~~ **P.L.96-2004,** the department, in consultation with the department of education, shall adopt rules to implement IC 22-4.1-7, as added by ~~this act,~~ **P.L.96-2004,** in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than September 1, 2004. A rule adopted under this SECTION expires on the earlier of:

(1) the date a rule is adopted by the department, in consultation with the department of education, under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 22-4.1-7, as added by ~~this act,~~ **P.L.96-2004;** or

(2) January 1, 2006.

(c) This SECTION expires December 31, 2007.

SECTION 141. P.L.231-2003, SECTION 6, AS AMENDED BY P.L.24-2004, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 6. (a) Except as provided in subsection (b), before July 1, 2006, the:

(1) air pollution control board, water pollution control board, or solid waste management board may not adopt a new rule; and

(2) department of environmental management may not adopt a new policy;

if the new rule or policy would require any industry described in ~~subsection (b)~~ **subsection (c)** that experienced at least a ten percent (10%) job loss or a ten percent (10%) decline in production during calendar years 2001, 2002, and 2003 to comply with a standard of

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conduct that exceeds the standard established in a related federal regulation or regulatory policy.

(b) Subsection (a) does not apply to the adoption of a new rule by the air pollution control board that is necessary to attain or maintain the primary or secondary national ambient air quality standards as part of a state implementation plan submitted to the United States Environmental Protection Agency under Section 110 of the federal Clean Air Act (42 U.S.C. 7410a).

(c) The following are the industries referred to in subsection (a) functioning under the following primary Standard Industrial Classification (SIC) codes:

(1) Blast furnaces and steel mills (3312).
(2) Gray and ductile iron foundries (3321).
(3) Malleable iron foundries (3322).
(4) Steel investment foundries (3324).
(5) Steel foundries (3325).
(6) Aluminum foundries (3365).
(7) Copper foundries (3366).
(8) Nonferrous foundries (3369).

(d) This SECTION expires July 1, 2006.

SECTION 142. P.L.62-2004, SECTION 3, IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 143. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1398, 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:

Page 32, delete lines 31 through 42.

Delete pages 33 through 36.

Page 37, delete lines 1 through 26.

Page 63, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 58. IC 13-14-9-3, AS AMENDED BY P.L.240-2003, SECTION 4, AND AS AMENDED BY P.L.282-2003, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) *Except as provided in subsection (b),* the department shall provide notice in the Indiana Register of the first public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

(1) Identify the authority under which the proposed rule is to be adopted.

(2) Describe the subject matter and the basic purpose of the proposed rule. The description required by this subdivision must:

(A) include a listing of all alternatives being considered by the department at the time of the notice; ~~*and must*~~

(B) include:

(i) a statement indicating whether each alternative listed under clause (A) is imposed under federal law;

(ii) a statement explaining how each alternative listed under clause (A) that is not imposed under federal law differs from federal law; and

(iii) any information known to the department about the potential fiscal impact of each alternative under clause (A) that is not imposed under federal law; and

(C) set forth the basis for each alternative *listed under clause (A).*

(3) Describe the relevant statutory or regulatory requirements or restrictions relating to the subject matter of the proposed rule that exist before the adoption of the proposed rule.

(4) Request the submission of alternative ways to achieve the purpose of the proposed rule.

(5) Request the submission of comments, including suggestions of specific language for the proposed rule.

(6) Include a detailed statement of the issue to be addressed by adoption of the proposed rule.

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(b) This section does not apply to rules adopted under IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.".

Page 98, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 119. IC 34-11-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies if a plaintiff commences an action and:

(1) the plaintiff fails in the action from any cause except ~~(1)~~ negligence in the prosecution of the action;

(2) the action abates or is defeated by the death of a party; or

(3) a judgment is arrested or reversed on appeal.

(b) If subsection (a) applies, a new action may be brought not later than the later of:

(1) three (3) years after the date of the determination under subsection (a); or

(2) the last date an action could have been commenced under the statute of limitations governing the original action;

and be considered a continuation of the original action commenced by the plaintiff.".

Page 115, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 135. IC 35-50-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention

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under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

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(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; **or**

~~(R) an offense under IC 9-30-5-5 (operating a vehicle while intoxicated causing death) if the person had:~~

~~(i) at least fifteen-hundredths (0.15) gram of alcohol per one hundred (100) milliliters of the person's blood; or at least fifteen-hundredths (0.15) gram of alcohol per two hundred ten (210) liters of the person's breath; or~~

~~(ii) a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or~~

~~(S)~~ **(R)** aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of an offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.".

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Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1398 as introduced.)

FOLEY, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1398, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1398 as printed February 15, 2005.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

C o p y