# CONFERENCE COMMITTEE REPORT
# DIGEST FOR EHB 1386

**Citations Affected:** IC 5-2-6; IC 10-13; IC 11-8; IC 11-13; IC 25-20.2-5-2; IC 31-19-11-1; IC 31-30-1-4; IC 34-30-2-149.5; IC 35-38; IC 35-42-4; IC 35-43-1-2; IC 35-44-3-13; IC 35-50; IC 36-2-13; IC 36-3-1-5.1; IC 36-8-10-21.

**Synopsis:** Sex offenders and criminal procedure. Conference committee report for EHB 1386. Conference committee report for EHB 1386. Adds: (1) promoting prostitution as a Class B felony; (2) promotion of human trafficking if the victim is less than 18 years of age; (3) sexual trafficking of a minor; (4) human trafficking if the victim is less than 18 years of age; and (5) possession of child pornography as a first offense; to the list of offenses requiring a person to register as a sex offender. Specifies that registration as a sex offender is not required for: (1) a parent or guardian who is convicted of kidnapping or confining a child of the parent or a child over whom the guardian has guardianship; or (2) a person convicted of sexual misconduct with a minor as a Class C felony if the person is not more than four or five years older than the victim (depending on when the offense was committed) and the court finds that the person should not be required to register. Specifies that, for purposes of the child pornography statute, a person may not possess certain material depicting or describing sexual conduct by a child who: (1) the person knows is less than 16 years of age; or (2) appears to be less than 16 years of age. Makes it a Class B felony for a person to commit child seduction by using a computer network if the person has a previous unrelated conviction for committing the offense by using a computer network. Removes the lifetime registration requirement for sexual battery as a Class D felony, and imposes the standard ten year registration requirement. Specifies that a person is an offender against children if the person engages in a conspiracy to commit or attempts to commit an offense that would make the person an offender against children. Permits a county to adopt: (1) an annual sex offender registration fee that does not exceed $50; and (2) a sex offender address change fee that does not exceed $5. Provides that 90% of each fee is deposited in the county sex offender administration fund, and 10% of each fee is transferred to the state for deposit in the state sex offender administration fund. Specifies that the funds are to be used for expenses related to the operation of the Indiana sex offender registry. Requires a sexually violent predator whose sentence does not include a commitment to the department of correction to be placed on lifetime parole. Permits the department of correction to report certain fingerprint information to the state police department, and makes certain other changes relating to fingerprinting. Requires the department of correction to maintain records on certain sex offenders who are no longer required to register in Indiana. Requires a local law enforcement authority to notify the department of

correction and update the National Sex Offender Registry database when a sex offender registers or the registration information changes. Makes numerous other changes to sex offender registration procedures. Requires a court to consider expert testimony before determining that a juvenile is likely to be a repeat sex offender, and establishes a procedure for psychological evaluation of sex offenders to determine if they are sexually violent predators. Provides that a person who is not more than four years older than the victim, was involved in a dating relationship with the victim, and did not use violence in the commission of the offense is not a sexually violent predator if certain other conditions are met, and provides a similar defense to sexual misconduct with a minor. Establishes a procedure to permit an offender against children to petition a court to have the designation removed. Permits a court to suspend the sentence of a person convicted of nonviolent child molesting who is not more than four years older than the victim, who was involved in a dating relationship with the victim, and who meets certain other conditions. Specifies that "school property", for purposes of the offender against children statute, does not include the property of an institution providing postsecondary education. Changes the name of the sex offender registry to the "sex and violent offender registry" and requires persons convicted of murder or voluntary manslaughter to register on the sex and violent offender registry under the same conditions applying to registration by sex offenders. Prohibits the suspension of the first 30 years of the sentence for certain serious child molesting offenses. Provides that the mistake-of-age defense to child molesting does not apply when the offense was committed by means of violence or the use of a drug. Establishes a procedure to permit certain offenders required to register in accordance with older laws to register in accordance with new laws. Adds a culpability standard to a criminal statute relating to the use of limited criminal histories. Requires persons in Indiana convicted of murder or voluntary manslaughter to be placed on lifetime parole. Reestablishes the sentencing policy study committee to evaluate sentencing laws and policies for an additional four years. Provides that a juvenile court does not have jurisdiction over an individual for attempted murder. Makes other changes, conforming amendments, and technical corrections. (The introduced version of this bill was prepared by the sentencing policy study committee.) **(This conference committee report does the following: Changes the name of the sex offender registry to the "sex and violent offender registry" and requires persons convicted of murder or voluntary manslaughter to register on the sex and violent offender registry under the same conditions applying to registration by sex offenders. Adds a culpability standard to a criminal statute relating to the use of limited criminal histories. Removes a provision placing military recruiters in the class of persons who can commit child seduction. Requires persons in Indiana convicted of murder or voluntary manslaughter to be placed on lifetime parole. Removes provisions related to Credit Class IV and credit restricted felons. Prohibits the suspension of the first 30 years of the sentence for certain serious child molesting offenses. Provides that the mistake-of-age defense to child molesting does not apply when the offense was committed by means of violence or the use of a drug. Establishes a procedure to permit certain offenders required to register in accordance with older laws to register in accordance with new laws. Specifies that certain persons convicted of sexual misconduct with a minor before July 1, 2007, may not be required to register as a sex offender if the age difference between the victim and the person is less than five years and certain other conditions are met. Provides that a juvenile court does not have jurisdiction over an individual for attempted murder. Reestablishes the sentencing policy study committee to evaluate sentencing laws and policies for an additional four years. Makes technical corrections and conforming amendments.)**

**Effective:** Upon passage; July 1, 2007.

Adopted Rejected

# CONFERENCE COMMITTEE REPORT

***MR. SPEAKER:***

***Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1386 respectfully reports that said two committees have conferred and agreed as follows to wit:***

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.173-2006,
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2007]: Sec. 3. The institute is established to do the following:
5 (1) Evaluate state and local programs associated with:
6 (A) the prevention, detection, and solution of criminal
7 offenses;
8 (B) law enforcement; and
9 (C) the administration of criminal and juvenile justice.
10 (2) Improve and coordinate all aspects of law enforcement,
11 juvenile justice, and criminal justice in this state.
12 (3) Stimulate criminal and juvenile justice research.
13 (4) Develop new methods for the prevention and reduction of
14 crime.
15 (5) Prepare applications for funds under the Omnibus Act and the
16 Juvenile Justice Act.
17 (6) Administer victim and witness assistance funds.
18 (7) Administer the traffic safety functions assigned to the institute
19 under IC 9-27-2.
20 (8) Compile and analyze information and disseminate the
21 information to persons who make criminal justice decisions in this
22 state.
23 (9) Serve as the criminal justice statistical analysis center for this
24 state.
25 (10) Identify grants and other funds that can be used by the
26 department of correction to carry out its responsibilities
27 concerning sex **or violent** offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 2. IC 5-2-6-14, AS AMENDED BY P.L.173-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or

(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

(2) support the **registration of sex or violent offenders under IC 11-8-8 and the** Indiana sex **and violent** offender registry **established** under ~~IC 11-8-8,~~ **IC 36-2-13-5.5;**

(3) provide training for persons to assist victims; and

(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 3. IC 10-13-3-5, AS AMENDED BY P.L.20-2006, SECTION 1, AND AS AMENDED BY P.L.140-2006, SECTION 4 AND P.L.173-2006, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

(1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(2) Information, *including a photograph,* regarding a sex ~~*and*~~ **or** *violent* offender (as defined in ~~*IC 5-2-12-4)*~~ *IC 11-8-8-5)* obtained

through sex ~~and~~ **or** *violent* offender registration under ~~*IC 5-2-12.*~~ *IC 11-8-8.*

(3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

*(4) A photograph of the person who is the subject of the information described in subdivisions (1) through (3).*

**(c) The term includes fingerprint information described in section 24(f) of this chapter.**

SECTION 4. IC 10-13-3-24, AS AMENDED BY P.L.20-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) The department shall act as the official state central repository for criminal history data.

(b) A sheriff, police department, or criminal justice agency in Indiana shall report to the department, on forms provided by the department, all arrests for reportable offenses.

(c) Except as provided in subsection (e), at the time a sheriff, police department, or criminal justice agency makes the report described in subsection (b), the sheriff, police department, or criminal justice agency shall transmit a photograph of the person who is the subject of the report to the department.

(d) The department may adopt guidelines concerning the:

(1) form; and

(2) manner of transmission (including electronic transmission);

of a photograph described in subsection (c). If the department adopts guidelines under this subsection, the sheriff, police department, or criminal justice agency required to transmit a photograph under subsection (c) shall transmit the photograph in accordance with the guidelines adopted by the department.

(e) Notwithstanding subsections (c) and (d):

(1) the department is not required to process; and

(2) a sheriff, police department, or criminal justice agency is not required to submit;

a photograph under this section unless the department has sufficient funding available to process photographs submitted under this section.

**(f) The department of correction may report to the department:**

**(1) fingerprints recorded by the department of correction in any reliable manner, including the use of a digital fingerprinting device, when a person convicted of an offense is received by the department of correction; and**

**(2) an abstract of judgment received by the department of correction that relates to the fingerprints described in subdivision (1).**

SECTION 5. IC 10-13-3-27, AS AMENDED BY P.L.1-2006, SECTION 171, AND AS AMENDED BY P.L.140-2006, SECTION 5 AND P.L.173-2006, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice

organization or individual;

(2) has applied for a license and *has provided* criminal history data ~~*is*~~ *as* required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services (established by ~~*IC 31-33-1.5-2)*~~ *IC 31-25-1-1)* or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;

(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;

(11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of family and children;

(12) is being sought by the parent locator service of the child support bureau of the ~~*division*~~ *department* of ~~*family and children,*~~ *child services;*

(13) is or was required to register as a sex ~~*and*~~ **or** *violent* offender under ~~*IC 5-2-12;*~~ *IC 11-8-8;* or

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited

criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who **knowingly or intentionally** uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 6. IC 10-13-3-30, AS AMENDED BY P.L.173-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:

(1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.

(2) Collect a three dollar ($3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar ($7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the department of child services.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

(1) has been requested; and

(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the **registration of sex or violent offenders under IC 11-8-8 or the** Indiana sex **and violent** offender registry under ~~IC 11-8-8~~ **IC 36-2-13-5.5** or concerns a person required to register as a sex **or violent** offender under IC 11-8-8.

SECTION 7. IC 10-13-4-4, AS AMENDED BY P.L.173-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

(1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.

(2) A petition alleging that the child is a delinquent child.

(3) Dispositional decrees concerning the child that are entered

under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).

(4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:

(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in IC 11-8-8-5 if committed by an adult; and

(B) that is obtained through sex **or violent** offender registration under IC 11-8-8.

SECTION 8. IC 11-8-2-12.4, AS ADDED BY P.L.173-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.4. The department shall do the following:

(1) Maintain the Indiana sex **and violent** offender registry established under IC 36-2-13-5.5. **The department shall ensure that a sex offender's Social Security number remains unavailable to the public.**

(2) Prescribe and approve a format for sex **or violent** offender registration as required by IC 11-8-8.

(3) Provide:

(A) judges;

(B) law enforcement officials;

(C) prosecuting attorneys;

(D) parole officers;

(E) probation officers; and

(F) community corrections officials;

with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex **and violent** offender registry.

(4) Upon request of a neighborhood association:

(A) transmit to the neighborhood association information concerning sex **or violent** offenders who reside near the location of the neighborhood association; or

(B) provide instructional materials concerning the use of the Indiana sex **and violent** offender registry to the neighborhood association.

**(5) Maintain records on every sex or violent offender who:**

**(A) is incarcerated;**

**(B) has relocated out of state; and**

**(C) is no longer required to register due to the expiration of the sex or violent offender's registration period.**

SECTION 9. IC 11-8-2-13, AS ADDED BY P.L.173-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The Indiana sex **and violent** offender registry established under IC 36-2-13-5.5 and maintained by the department under section 12.4 of this chapter must include the names of each offender who is or has been required to register under IC 11-8-8.

(b) The department shall do the following:

(1) Ensure that the Indiana sex **and violent** offender registry is updated at least once per day with information provided by a local

law enforcement authority (as defined in IC 11-8-8-2).

(2) Publish the Indiana sex **and violent** offender registry on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1, and ensure that the Indiana sex **and violent** offender registry displays the following or similar words:

"Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a sex **or violent** offense or has been adjudicated a delinquent child for an act that would be a sex **or violent** offense if committed by an adult.".

SECTION 10. IC 11-8-8-3, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this chapter, "principal residence" means the residence where a sex **or violent** offender spends the most time. The term includes a residence owned or leased by another person if the sex **or violent** offender:

(1) does not own or lease a residence; or

(2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex **or violent** offender.

SECTION 11. IC 11-8-8-4, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. As used in this chapter, "register" means to ~~provide~~ **report in person to** a local law enforcement authority ~~with~~ **and provide** the information required under section 8 of this chapter.

SECTION 12. IC 11-8-8-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:**

**(1) Rape (IC 35-42-4-1).**

**(2) Criminal deviate conduct (IC 35-42-4-2).**

**(3) Child molesting (IC 35-42-4-3).**

**(4) Child exploitation (IC 35-42-4-4(b)).**

**(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).**

**(6) Child solicitation (IC 35-42-4-6).**

**(7) Child seduction (IC 35-42-4-7).**

**(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), unless:**

**(A) the person is convicted of sexual misconduct with a minor as a Class C felony;**

**(B) the person is not more than:**

**(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or**

**(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and**

**(C) the sentencing court finds that the person should not be required to register as a sex offender.**

**(9) Incest (IC 35-46-1-3).**

**(10) Sexual battery (IC 35-42-4-8).**
**(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.**
**(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.**
**(13) Possession of child pornography (IC 35-42-4-4(c)).**
**(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.**
**(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.**
**(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).**
**(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.**
**(18) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (17).**
**(19) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (18).**

**(b) The term includes:**
**(1) a person who is required to register as a sex offender in any jurisdiction; and**
**(2) a child who has committed a delinquent act and who:**
**(A) is at least fourteen (14) years of age;**
**(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and**
**(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.**

**(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.**

SECTION 13. IC 11-8-8-5, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) **Except as provided in section 22 of this chapter,** as used in this chapter, "sex **or violent** offender" means a person convicted of any of the following offenses:
(1) Rape (IC 35-42-4-1).
(2) Criminal deviate conduct (IC 35-42-4-2).
(3) Child molesting (IC 35-42-4-3).
(4) Child exploitation (IC 35-42-4-4(b)).
(5) Vicarious sexual gratification **(including performing sexual conduct in the presence of a minor)** (IC 35-42-4-5).
(6) Child solicitation (IC 35-42-4-6).
(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), **unless:**

**(A) the person is convicted of sexual misconduct with a minor as a Class C felony;**

**(B) the person is not more than:**

**(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or**

**(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and**

**(C) the sentencing court finds that the person should not be required to register as a sex offender.**

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, **and the person who kidnapped the victim is not the victim's parent or guardian.**

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, **and the person who confined or removed the victim is not the victim's parent or guardian.**

(13) Possession of child pornography (IC 35-42-4-4(c)). ~~if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).~~

**(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.**

**(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.**

**(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).**

**(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.**

**(18) Murder (IC 35-42-1-1).**

**(19) Voluntary manslaughter (IC 35-42-1-3).**

~~(14)~~ **(20)** An attempt or conspiracy to commit a crime listed in subdivisions (1) through ~~(13).~~ **(19).**

~~(15)~~ **(21)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(14).~~ **(20).**

(b) The term includes:

(1) a person who is required to register as a sex **or violent** offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

**(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child**

**is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.**

SECTION 14. IC 11-8-8-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.2. As used in this chapter, "sex offense" means an offense listed in section 4.5(a) of this chapter.**

SECTION 15. IC 11-8-8-7, AS AMENDED BY SEA 562-2007, SECTION 151, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex **or violent** offender who resides in Indiana. A sex **or violent** offender resides in Indiana if either of the following applies:

(A) The sex **or violent** offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex **or violent** offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex **or violent** offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:

(A) exceeding ~~fourteen (14)~~ **seven (7)** consecutive days; or

(B) for a total period exceeding ~~thirty (30)~~ **fourteen (14)** days;

during any calendar year in Indiana **regardless of** whether the sex **or violent** offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex **or violent** offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or postsecondary educational institution.

(b) Except as provided in subsection (e), a sex **or violent** offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex **or violent** offender resides. If a sex **or violent** offender resides in more than one (1) county, the sex **or violent** offender shall register with the local law enforcement authority in each county in which the sex **or violent** offender resides. If the sex **or violent** offender is also required to register under subsection (a)(2) or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex **or violent** offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex **or violent** offender is or intends to be employed or carry on a vocation. If a sex **or violent** offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex **or violent** offender shall register with the local law enforcement authority in each county. If the sex **or violent** offender is also required to register under subsection (a)(1) or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex **or violent** offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex **or violent** offender is enrolled or intends to be enrolled as a student. If the sex **or violent** offender is also required to register under subsection (a)(1) or (a)(2), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex **or violent** offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex **or violent** offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex **or violent** offender committed to the department shall register with the department before the sex **or violent** offender is released from incarceration. The department shall forward the sex **or violent** offender's registration information to the local law enforcement authority of every county in which the sex **or violent** offender is required to register.

(g) This subsection does not apply to a sex **or violent** offender who is a sexually violent predator. A sex **or violent** offender not committed to the department shall register not more than seven (7) days after the sex **or violent** offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);
(2) is released from a secure private facility (as defined in IC 31-9-2-115);
(3) is released from a juvenile detention facility;
(4) is transferred to a community transition program;
(5) is placed on parole;
(6) is placed on probation;
(7) is placed on home detention; or
(8) arrives at the place where the sex **or violent** offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex **or violent** offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex **or violent** offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex **or violent** offender who is a sexually violent predator. A sex **or violent** offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex **or violent** offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);
(2) is released from a secure private facility (as defined in IC 31-9-2-115);
(3) is released from a juvenile detention facility;
(4) is transferred to a community transition program;
(5) is placed on parole;
(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex **or violent** offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex **or violent** offender registers under this section shall make and publish a photograph of the sex **or violent** offender on the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex **or violent** offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex **or violent** offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5.

(j) When a sex **or violent** offender registers, the local law enforcement authority shall:

(1) immediately update the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5; ~~and~~

(2) notify every law enforcement agency having jurisdiction in the county where the sex **or violent** offender resides; **and**

**(3) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS).**

~~The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex offender during registration.~~ **When a sex or violent offender from a jurisdiction outside Indiana registers a change of address, employment, vocation, or enrollment in Indiana, the local law enforcement authority shall provide the department with the information provided by the sex or violent offender during registration.**

SECTION 16. IC 11-8-8-8, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The registration required under this chapter must include the following information:

(1) The sex **or violent** offender's full name, alias, any name by which the sex **or violent** offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification **card** number, **vehicle description and**

**vehicle plate number for any vehicle the sex or violent offender owns or operates on a regular basis,** principal residence address, **other address where the sex or violent offender spends more than seven (7) nights in a fourteen (14) day period,** and mailing address, if different from the sex **or violent** offender's principal residence address.

(2) A description of the offense for which the sex **or violent** offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex **or violent** offender's employers in Indiana, the name and address of each campus or location where the sex **or violent** offender is enrolled in school in Indiana, and the address where the sex **or violent** offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex **or violent** offender.

(5) If the sex **or violent** offender is a sexually violent predator, that the sex **or violent** offender is a sexually violent predator.

(6) If the sex **or violent** offender is required to register for life, that the sex **or violent** offender is required to register for life.

(7) Any other information required by the department.

SECTION 17. IC 11-8-8-9, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) Not more than seven (7) days before an Indiana sex **or violent** offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex **or violent** offender of the sex **or violent** offender's duty to register under this chapter and require the sex **or violent** offender to sign a written statement that the sex **or violent** offender was orally informed or, if the sex **or violent** offender refuses to sign the statement, certify that the sex **or violent** offender was orally informed of the duty to register.

(2) Deliver a form advising the sex **or violent** offender of the sex **or violent** offender's duty to register under this chapter and require the sex **or violent** offender to sign a written statement that the sex **or violent** offender received the written notice or, if the sex **or violent** offender refuses to sign the statement, certify that the sex **or violent** offender was given the written notice of the duty to register.

(3) Obtain the address where the sex **or violent** offender expects to reside after the sex **or violent** offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex **or violent** offender expects to reside the sex **or violent** offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex **or violent** offender.

(b) Not more than seventy-two (72) hours after a sex **or violent**

offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex **or violent** offender's fingerprints, photograph, and identification factors.

(2) The address where the sex **or violent** offender expects to reside after the sex **or violent** offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex **or violent** offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex **or violent** offender.

(4) Information regarding the sex **or violent** offender's past treatment for mental disorders.

(5) Information as to whether the sex **or violent** offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex **or violent** offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex **or violent** offender is sentenced shall perform the duties required under subsections (a) and (b).

**(d) For any sex or violent offender who is not committed to the department, the probation office of the sentencing court shall transmit to the department a copy of the sex or violent offender's:**

**(1) sentencing order;**

**(2) presentence investigation; and**

**(3) any other information required by the department to make a determination concerning sex or violent offender registration.**

SECTION 18. IC 11-8-8-10, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. Notwithstanding any other law, upon receiving a sex **or violent** offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

SECTION 19. IC 11-8-8-11, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) If a sex **or violent** offender who is required to register under this chapter changes:

(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex **or violent** offender stays in Indiana;

the sex **or violent** offender shall ~~register not more than seventy-two (72) hours after the address change with the local law enforcement authority with whom the sex offender last registered.~~ **report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal address or location and, if the offender moves to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal address or location not more than seventy-two (72) hours after the address change.**

(b) If a sex **or violent** offender moves to a new county in Indiana,

the local law enforcement authority ~~referred to in subsection (a)~~ **where the sex or violent offender's current principal residence address is located** shall inform the local law enforcement authority in the new county in Indiana of the sex **or violent** offender's residence and forward all relevant registration information concerning the sex **or violent** offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex **or violent** offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex **or violent** offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex **or violent** offender's principal place of employment, principal place of vocation, or campus or location where the sex **or violent** offender is enrolled in school, the sex **or violent** offender shall ~~register not more than seventy-two (72) hours after the change with the local law enforcement authority with whom the sex offender last registered.~~ **report in person:**

**(1) to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school; and**

**(2) if the sex or violent offender changes the sex or violent offender's place of employment, vocation, or enrollment to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school;**

**not more than seventy-two (72) hours after the change.**

(d) If a sex **or violent** offender moves the sex **or violent** offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority ~~referred to in subsection (c)~~ **having jurisdiction over the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school** shall inform the local law enforcement authority in the new county of the sex **or violent** offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex **or violent** offender moves the sex **or violent** offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex **or violent** offender's new place of residence, employment, **vocation,** or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex **or violent** offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall:

**(1)** immediately update the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5;

**(2) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS); and**

**(3) notify the department.**

**(h) If a sex or violent offender who is registered with a local law enforcement authority becomes incarcerated, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.**

**(i) If a sex or violent offender is no longer required to register due to the expiration of the registration period, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.**

SECTION 20. IC 11-8-8-12, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) As used in this section, "temporary residence" means a residence:

(1) that is established to provide transitional housing for a person without another residence; and

(2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex **or violent** offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex **or violent** offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

(1) not more than seventy-two (72) hours after the sex **or violent** offender moves into the temporary residence; and

(2) during the period in which the sex **or violent** offender resides in a temporary residence, at least once every seven (7) days following the sex **or violent** offender's initial registration under subdivision (1).

**(c) A sex or violent offender who does not have a principal residence or temporary residence shall report in person to the local law enforcement authority in the county where the sex or violent offender resides at least once every seven (7) days to report an address for the location where the sex or violent offender will stay during the time in which the sex or violent offender lacks a principal address or temporary residence.**

~~(c)~~ **(d)** A sex **or violent** offender's obligation to register in person once every seven (7) days terminates when the sex **or violent** offender no longer resides in the temporary residence **or location described in subsection (c).** However, all other requirements imposed on a sex **or violent** offender by this chapter continue in force, including the requirement that a sex **or violent** offender register the sex **or violent** offender's new address with the local law enforcement authority.

SECTION 21. IC 11-8-8-13, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2007]: Sec. 13. (a) To verify a sex **or violent** offender's current residence, the local law enforcement authority **having jurisdiction over the area of the sex or violent offender's current principal address or location** shall do the following:

(1) Mail a ~~reply~~ form **that is approved or prescribed by the department** to each sex **or violent** offender in the county at the sex **or violent** offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex **or violent** offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(2) Mail a ~~reply~~ form **that is approved or prescribed by the department** to each sex **or violent** offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex **or violent** offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(3) Personally visit each sex **or violent** offender in the county at the sex **or violent** offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex **or violent** offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(4) Personally visit each sex **or violent** offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex **or violent** offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
(B) placed in a community transition program;
(C) placed in a community corrections program;
(D) placed on parole; or
(E) placed on probation;
whichever occurs first.

(b) If a sex **or violent** offender fails to return a signed ~~reply~~ form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the listed address, the local law enforcement authority shall immediately notify the department and the prosecuting attorney.

SECTION 22. IC 11-8-8-14, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. **(a) This subsection does not apply to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter,** ~~At least once per calendar year,~~ a sex **or violent** offender who is required to register under this chapter shall, **at least one (1) time per calendar year:**

(1) report in person to the local law enforcement authority;
(2) register; and
(3) be photographed by the local law enforcement authority;

in each location where the offender is required to register.

**(b) This subsection applies to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent offender who is a sexually violent predator under IC 35-38-1-7.5 shall:**

**(1) report in person to the local law enforcement authority;**
**(2) register; and**
**(3) be photographed by the local law enforcement authority in each location where the sex or violent offender is required to register;**

**every ninety (90) days.**

**(c) Each time a sex or violent offender who claims to be working or attending school registers in person, the sex or violent offender shall provide documentation to the local law enforcement authority providing evidence that the sex or violent offender is still working or attending school at the registered location.**

SECTION 23. IC 11-8-8-15, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) A sex **or violent** offender who is a resident of Indiana shall obtain and keep in the sex **or violent** offender's possession:

(1) a valid Indiana driver's license; or
(2) a valid Indiana identification card (as described in IC 9-24-16).

(b) A sex **or violent** offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex **or violent** offender's possession:

(1) a valid driver's license issued by the state in which the sex **or**

**violent** offender resides; or

(2) a valid state issued identification card issued by the state in which the sex **or violent** offender resides.

(c) A person who knowingly or intentionally violates this section commits failure of a sex **or violent** offender to possess identification, a Class A misdemeanor. However, the offense is a Class D felony if the person:

(1) is a sexually violent predator; or

(2) has a prior unrelated conviction:

(A) under this section; or

(B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

(1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days have passed since the person's release from incarceration; or

(2) the person possesses a driver's license or state issued identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b).

SECTION 24. IC 11-8-8-16, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) A sex **or violent** offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex **or violent** offender who is required to register under this chapter changes the sex **or violent** offender's name due to marriage, the sex **or violent** offender must register with the local law enforcement authority not more than seven (7) days after the name change.

SECTION 25. IC 11-8-8-17, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. **(a)** A sex **or violent** offender who knowingly or intentionally:

(1) fails to register when required to register under this chapter;

(2) fails to register in every location where the sex **or violent** offender is required to register under this chapter;

(3) makes a material misstatement or omission while registering as a sex **or violent** offender under this chapter; ~~or~~

(4) fails to register in person ~~and be photographed at least one (1) time per year~~ as required under this chapter; **or**

**(5) does not reside at the sex or violent offender's registered address or location;**

commits a Class D felony.

**(b)** ~~However,~~ The offense **described in subsection (a)** is a Class C felony if the sex **or violent** offender has a prior unrelated conviction for an offense:

**(1)** under this section; or

**(2)** based on the person's failure to comply with any requirement imposed on a sex **or violent** offender under this chapter **or under IC 5-2-12 before its repeal.**

**(c) It is not a defense to a prosecution under this section that the**

**sex or violent offender was unable to pay the sex or violent offender registration fee or the sex or violent offender address change fee described under IC 36-2-13-5.6.**

SECTION 26. IC 11-8-8-18, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A sexually violent predator who will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority **in the county where the sexually violent predator's principal address is located,** in person, ~~or in writing,~~ of the following:

(1) That the sexually violent predator will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours.

(2) The location where the sexually violent predator will be located during the absence from the sexually violent predator's principal residence.

(3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.

(b) A sexually violent predator who will spend more than seventy-two (72) hours in a county in which the sexually violent predator is not required to register shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person, ~~or in writing,~~ of the following:

(1) That the sexually violent predator will spend more than seventy-two (72) hours in the county.

(2) The location where the sexually violent predator will be located while spending time in the county.

(3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually violent predator's stay in the county.

(c) A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex **or violent** offender under this chapter.

SECTION 27. IC 11-8-8-19, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) Except as provided in subsections (b) through (e), a sex **or violent** offender is required to register under this chapter until the expiration of ten (10) years after the date the sex **or violent** offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;

(2) is placed in a community transition program;
(3) is placed in a community corrections program;
(4) is placed on parole; or
(5) is placed on probation;

whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex **or violent** offender is notified that the obligation to register has expired.

(b) A sex **or violent** offender who is a sexually violent predator is required to register for life.

(c) A sex **or violent** offender who is convicted of at least one (1) ~~sex~~ offense **under section 5(a) of this chapter** that the sex **or violent** offender committed:

(1) when the person was at least eighteen (18) years of age; and
(2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) A sex **or violent** offender who is convicted of at least one (1) ~~sex~~ offense **under section 5(a) of this chapter** in which the sex offender:

(1) proximately caused serious bodily injury or death to the victim;
(2) used force or the threat of force against the victim or a member of the victim's family, **unless the offense is sexual battery as a Class D felony;** or
(3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex **or violent** offender who is convicted of at least two (2) unrelated ~~sex~~ offenses **under section 5(a) of this chapter** is required to register for life.

**(f) A person who is required to register as a sex or violent offender in any jurisdiction shall register for the period required by the other jurisdiction or the period described in this section, whichever is longer.**

SECTION 28. IC 11-8-8-20, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) The ~~governor~~ **department** may enter into a compact **or agreement** with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the ~~release, transfer, or~~ change of address, employment, vocation, or enrollment of a sex **or violent** offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

~~(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.~~

~~(c)~~ **(b)** If the ~~state agency~~ **department** receives information that a sex **or violent** offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, **or that a sex or violent offender has been convicted in Indiana but not sentenced to the department,** the ~~state agency~~ **department** shall ~~inform in writing the local law enforcement authority where the sex offender is required to~~

~~register in Indiana of.~~ **determine:**

~~(1) the sex offender's name, date of relocation, and new address; and~~

~~(2) the sex offense or delinquent act committed by the sex offender.~~

**(1) whether the person is defined as a:**

**(A) sex offender under IC 11-8-8-4.5; or**

**(B) sex or violent offender under IC 11-8-8-5;**

**(2) whether the person is a sexually violent predator under IC 35-38-1-7.5;**

**(3) the period the person will be required to register as a sex or violent offender in Indiana; and**

**(4) any other matter required by law to make a registration determination.**

**(c) After the department has made a determination under subsection (b), the department shall update the sex and violent offender registry web site and transmit the department's determination to the local law enforcement authority having jurisdiction over the county where the sex or violent offender resides, is employed, and attends school. The department shall transmit:**

**(1) the sex or violent offender's name, date of relocation, new address (if applicable), the offense or delinquent act committed by the sex or violent offender, and any other available descriptive information;**

**(2) whether the sex or violent offender is a sexually violent predator;**

**(3) the period the sex or violent offender will be required to register in Indiana; and**

**(4) anything else required by law to make a registration determination.**

~~(d) The state agency shall determine, following a hearing:~~

~~(1) whether a person convicted of an offense in another jurisdiction is required to register as a sex offender in Indiana;~~

~~(2) whether an out of state sex offender is a sexually violent predator; and~~

~~(3) the period in which an out of state sex offender who has moved to Indiana will be required to register as a sex offender in Indiana.~~

SECTION 29. IC 11-8-8-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 21. (a) The state sex and violent offender administration fund is established to assist the department in carrying out its duties under IC 11-8-2-12.4 concerning the Indiana sex and violent offender registry. The fund shall be administered by the department.**

**(b) The expenses of administering the fund shall be paid from money in the fund.**

**(c) The fund consists of:**

**(1) grants;**

**(2) donations;**

**(3) appropriations;**

**(4) money from the annual sex or violent offender registration fee (IC 36-2-13-5.6(a)(1)(A)); and**

**(5) money from the sex or violent offender address change fee (IC 36-2-13-5.6(a)(1)(B)).**

**(d) 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.**

**(e) Money in the fund is continually appropriated to carry out the purposes of the fund.**

SECTION 30. IC 11-8-8-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 22. (a) As used in this section, "offender" means a sex offender (as defined in section 4.5 of this chapter) and a sex or violent offender (as defined in section 5 of this chapter).**

**(b) This section applies to an offender required to register under this chapter if, due to a change in federal or state law after June 30, 2007, an individual who engaged in the same conduct as the offender:**

**(1) would not be required to register under this chapter; or**

**(2) would be required to register under this chapter but under less restrictive conditions than the offender is required to meet.**

**(c) A person to whom this section applies may petition a court to:**

**(1) remove the person's designation as an offender; or**

**(2) require the person to register under less restrictive conditions.**

**(d) After receiving a petition under this section, the court may:**

**(1) summarily dismiss the petition; or**

**(2) give notice to the prosecuting attorney and set the matter for hearing.**

**(e) A court may grant a petition under this section if, following a hearing, the court makes the following findings:**

**(1) The law requiring the petitioner to register as an offender has changed since the date on which the petitioner was initially required to register.**

**(2) If the petitioner who was required to register as an offender before the change in law engaged in the same conduct after the change in law occurred, the petitioner would:**

**(A) not be required to register as an offender; or**

**(B) be required to register as an offender, but under less restrictive conditions.**

**(3) If the petitioner seeks relief under this section because a change in law makes a previously unavailable defense available to the petitioner, that the petitioner has proved the defense.**

**The court has the discretion to deny a petition under this section, even if the court makes the findings under this subsection.**

**(f) The petitioner has the burden of proof in a hearing under**

**this section.**

**(g) If the court grants a petition under this section, the court shall notify:**

**(1) the victim of the offense, if applicable;**

**(2) the department of correction; and**

**(3) the local law enforcement authority of the county in which the petitioner resides.**

SECTION 31. IC 11-13-3-4, AS AMENDED BY P.L.60-2006, SECTION 1, AS AMENDED BY P.L.139-2006, SECTION 2, AND AS AMENDED BY P.L.140-2006, SECTION 15 AND P.L.173-2006, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be

revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex ~~*and violent*~~ offender (as defined in ~~*IC 5-2-12-4) IC 11-8-8-5)*~~ **IC 11-8-8-4.5)** to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is ~~*an*~~ *a sex* **or violent** offender (as defined in ~~*IC 5-2-12-4)*~~ *IC 11-8-8-5)* to register with a ~~*sheriff (or the police chief of a consolidated city)*~~ *local law enforcement authority* under ~~*IC 5-2-12-5,*~~ *IC 11-8-8;*

(B) prohibit ~~the~~ **a parolee who is a** *sex* offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, *unless the sex offender obtains written approval from the parole board;* ~~*and*~~

(C) prohibit a parolee who is ~~*an*~~ *a sex* offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the *sex* offender's sex offense *unless the sex offender obtains a waiver under IC 35-38-2-2.5; and*

*(D) prohibit a parolee* **who is a sex offender** *from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.*

*The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5)* **or a sex offender who is an offender against children under IC 35-42-4-11** *a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.*

(h) The address of the victim of a parolee who is ~~*an*~~ *a sex* offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, *even if the sex offender obtains a waiver under IC 35-38-2-2.5.*

*(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.*

~~*(i)*~~ **(j)** *As a condition of parole, the parole board:*

*(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and*

*(2) may require a parolee who is a sex* **or violent** *offender (as defined in* ~~*IC 5-2-12-4),*~~ *IC 11-8-8-5);*

*to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.*

~~(j)~~ **(k)** *As a condition of parole, the parole board may prohibit, in accordance with ~~IC 35-38-2-2.5,~~ IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.*

SECTION 32. IC 11-13-4.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Except as provided in subsection (b), an Indiana offender on probation or parole who applies to be transferred out of state under the interstate compact for adult supervision shall pay an application fee of seventy-five dollars ($75). The application fee shall be used to cover the costs of administering the interstate compact for adult offender supervision.

(b) An offender who has been found indigent by a trial court at the time the offender applies to be transferred out of state under the interstate compact for adult supervision may, at the court's discretion, be required to pay a lesser amount of the cost of the application fee under subsection (a).

(c) An Indiana offender who is on probation shall pay the application fee to the county probation department.

(d) An Indiana offender who is on parole shall pay the application fee to the department of correction.

(e) The application fee paid by an Indiana offender who is on probation shall be transferred to the county treasurer. The county treasurer shall deposit fifty percent (50%) of the money collected under this subsection into the county supplemental adult probation services fund and shall transmit the remaining fifty percent (50%) of the money collected under this subsection to the Indiana judicial center for deposit in the general fund, to be used to cover the cost of administering the interstate compact for adult offender supervision.

(f) The executive director of the Indiana judicial center shall submit a proposed budget for expenditure of the money deposited in the general fund under this section to the budget agency in accordance with IC 4-12-1.

(g) The application fee paid by an Indiana offender who is on parole shall be deposited into the general fund to be used to cover the cost of administering the interstate compact for adult offender supervision.

(h) The commissioner of the department of correction shall submit a proposed budget for expenditure of the money deposited in the general fund under this section to the budget agency in accordance with IC 4-12-1.

**(i) The judicial center and the department of correction shall develop a process to ensure that a sex or violent offender who transfers to or out of Indiana under the compact will be registered appropriately.**

SECTION 33. IC 25-20.2-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) An individual who applies for a license as a home inspector must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has graduated from high school or earned an Indiana

general educational development (GED) diploma; and

(C) has not been:

(i) convicted of an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(ii) convicted of a crime that has a direct bearing on the individual's ability to perform competently and fully as a licensee;

(iii) listed on a national or state registry of sex **or violent** offenders; or

(iv) the subject of a disciplinary or enforcement action by another state or a local jurisdiction in connection with the performance of home inspections or the licensing or certification of home inspectors.

(2) Verify the information submitted on the application form.

(3) Complete a board approved training program or course of study involving the performance of home inspections and the preparation of home inspection reports and pass an examination prescribed or approved by the board.

(4) Submit to the board a certificate of insurance or other evidence of financial responsibility that is acceptable to the board and that:

(A) is issued by an insurance company or other legal entity authorized to transact business in Indiana;

(B) provides for general liability coverage of at least one hundred thousand dollars ($100,000);

(C) lists the state as an additional insured;

(D) states that cancellation and nonrenewal of the underlying policy or other evidence of financial responsibility is not effective until the board receives at least ten (10) days prior written notice of the cancellation or nonrenewal; and

(E) contains any other terms and conditions established by the board.

(5) Pay a licensing fee established by the board.

(b) An individual applying for a license as a home inspector must apply on a form prescribed and provided by the board.

SECTION 34. IC 31-19-11-1, AS AMENDED BY P.L.140-2006, SECTION 17 AND P.L.173-2006, SECTION 17, AND AS AMENDED BY P.L.145-2006, SECTION 253, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the ~~*department's*~~ *state department of health's* affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

(7) Aggravated battery (IC 35-42-2-1.5).

(8) Kidnapping (IC 35-42-3-2).

(9) Criminal confinement (IC 35-42-3-3).

(10) A felony sex offense under IC 35-42-4.

(11) Carjacking (IC 35-42-5-2).

(12) Arson (IC 35-43-1-1).

(13) Incest (IC 35-46-1-3).

(14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

(15) Child selling (IC 35-46-1-4(d)).

(16) A felony involving a weapon under IC 35-47 or IC 35-47.5.

(17) A felony relating to controlled substances under IC 35-48-4.

(18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~*an*~~ *a sex* **or violent** offender (as defined in ~~*IC 5-2-12-4).*~~ *IC 11-8-8-5).*

SECTION 35. IC 31-30-1-4, AS AMENDED BY P.L.151-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

**(1) IC 35-41-5-1(a) (attempted murder);**

~~(1)~~ **(2)** IC 35-42-1-1 (murder);

~~(2)~~ **(3)** IC 35-42-3-2 (kidnapping);

~~(3)~~ **(4)** IC 35-42-4-1 (rape);

~~(4)~~ **(5)** IC 35-42-4-2 (criminal deviate conduct);

~~(5)~~ **(6)** IC 35-42-5-1 (robbery) if:

(A) the robbery was committed while armed with a deadly weapon; or

(B) the robbery results in bodily injury or serious bodily injury;

~~(6)~~ **(7)** IC 35-42-5-2 (carjacking);

~~(7)~~ **(8)** IC 35-45-9-3 (criminal gang activity);

~~(8)~~ **(9)** IC 35-45-9-4 (criminal gang intimidation);

~~(9)~~ **(10)** IC 35-47-2-1 (carrying a handgun without a license);

~~(10)~~ **(11)** IC 35-47-10 (children and firearms);

~~(11)~~ **(12)** IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or

~~(12)~~ **(13)** any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through ~~(11),~~ **(12);**

if the individual was at least sixteen (16) years of age at the time of the alleged violation.

(b) The juvenile court does not have jurisdiction for an alleged violation of manufacturing or dealing in cocaine or a narcotic drug (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing in a schedule IV controlled substance (IC 35-48-4-3), if:

(1) the individual has a prior unrelated conviction under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or

(2) the individual has a prior unrelated juvenile adjudication that, if committed by an adult, would be a crime under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;

and the individual was at least sixteen (16) years of age at the time of the alleged violation.

(c) Once an individual described in subsection (a) or (b) has been charged with any crime listed in subsection (a) or (b), the court having adult criminal jurisdiction shall retain jurisdiction over the case even if the individual pleads guilty to or is convicted of a lesser included offense. A plea of guilty to or a conviction of a lesser included offense does not vest jurisdiction in the juvenile court.

SECTION 36. IC 34-30-2-149.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2007]: **Sec. 149.5. IC 35-38-1-28(d) (Concerning a clerk, court, law enforcement officer, or prosecuting attorney for an error or omission in the transportation of fingerprints, case history data, or sentencing data.)**

SECTION 37. IC 35-38-1-7.5, AS AMENDED BY P.L.173-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly ~~engage in any of the offenses described in IC 11-8-8-5.~~ **commit a sex offense (as defined in IC 11-8-8-5.2).** The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3 as a Class A or Class B felony;

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(H) IC 35-42-4-5(b)(2); ~~or~~

(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony; ~~or~~

**(J) an attempt or conspiracy to commit a crime listed in clauses (A) through (I); or**

**(K) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (J);**

(2) commits ~~an~~ **a sex** offense ~~described in IC 11-8-8-5~~ **(as defined in IC 11-8-8-5.2)** while having a previous unrelated conviction for ~~an~~ **a sex** offense ~~described in IC 11-8-8-5~~ for which the person is required to register as ~~an~~ **a sex or violent** offender under IC 11-8-8;

**(3) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if, after considering expert testimony, a court finds by clear and convincing evidence that the person is likely to commit an additional sex offense; or**

**(4) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if the person was required to register as a sex or violent offender under IC 11-8-8-5(b)(2);**

is a sexually violent predator. **Except as provided in subsection (g) or (h), a person is a sexually violent predator by operation of law if an offense committed by the person satisfies the conditions set forth**

**in subdivision (1) or (2) and the person was released from incarceration, secure detention, or probation for the offense after June 30, 1994.**

(c) This section applies whenever a court sentences a person **or a juvenile court issues a dispositional decree** for a sex offense ~~listed in IC 11-8-8-5~~ **(as defined in IC 11-8-8-5.2)** for which the person is required to register with the local law enforcement authority under IC 11-8-8.

(d) At the sentencing hearing, the court shall ~~determine~~ **indicate on the record** whether the person ~~is~~ **has been convicted of an offense that makes the person** a sexually violent predator under subsection (b).

(e) If ~~the court does not find the~~ **a** person ~~to be~~ **is not** a sexually violent predator under subsection (b), **the prosecuting attorney may request the court to conduct a hearing to determine whether the person (including a child adjudicated to be a delinquent child) is a sexually violent predator under subsection (a). If the court grants the motion,** the court shall ~~consult with a board of experts consisting of~~ **appoint** two (2) ~~board certified~~ psychologists or psychiatrists who have expertise in criminal behavioral disorders to ~~determine if the person is a sexually violent predator under subsection (a).~~ **evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person is a sexually violent predator under subsection (a). A hearing conducted under this subsection may be combined with the person's sentencing hearing.**

(f) If ~~the court finds that~~ a person is a sexually violent predator:

(1) the person is required to register with the local law enforcement authority as provided in IC 11-8-8; and

(2) the court shall send notice ~~of its finding under this subsection~~ to the department of correction.

(g) **This subsection does not apply to a person who has two (2) or more unrelated convictions for an offense described in IC 11-8-8-4.5 for which the person is required to register under IC 11-8-8.** A person who is ~~found by a court to be~~ a sexually violent predator may petition the court to consider whether the person should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court **or juvenile court** makes its ~~finding~~ **determination** under subsection (e); or

(2) ~~a~~ **the** person ~~found to be a sexually violent predator under subsection (b)~~ is released from incarceration **or secure detention.**

A person may file a petition under this subsection not more than one (1) time per year. **A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered a sexually violent predator. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2)**

**psychologists or psychiatrists, the court shall determine whether the person should no longer be considered a sexually violent predator under subsection (a).** If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction that the person is no longer considered a sexually violent predator. Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

**(h) A person is not a sexually violent predator by operation of law under subsection (b)(1) if all of the following conditions are met:**

**(1) The victim was not less than twelve (12) years of age at the time the offense was committed.**

**(2) The person is not more than four (4) years older than the victim.**

**(3) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.**

**(4) The offense committed by the person was not any of the following:**

**(A) Rape (IC 35-42-4-1).**

**(B) Criminal deviate conduct (IC 35-42-4-2).**

**(C) An offense committed by using or threatening the use of deadly force or while armed with a deadly weapon.**

**(D) An offense that results in serious bodily injury.**

**(E) An offense that is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.**

**(5) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.**

**(6) The person did not have a position of authority or substantial influence over the victim.**

**(7) The court finds that the person should not be considered a sexually violent predator.**

SECTION 38. IC 35-38-1-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 28. (a) Except as provided in subsection (c), immediately after sentencing a defendant for an offense, the court shall order the defendant to be fingerprinted by an individual qualified to take fingerprints. The fingerprints may be recorded in any reliable manner, including by the use of a digital fingerprinting device.**

**(b) The court shall order a law enforcement officer to provide the fingerprints to the prosecuting attorney and the state police**

**department, in hard copy or in an electronic format approved by the security and privacy council established by IC 10-13-3-34.**

**(c) The court is not required to order the defendant to be fingerprinted if the defendant was previously arrested and processed at the county jail.**

**(d) A clerk, court, law enforcement officer, or prosecuting attorney is immune from civil liability for an error or omission in the transmission of fingerprints, case history data, or sentencing data, unless the error or omission constitutes willful or wanton misconduct or gross negligence.**

SECTION 39. IC 35-38-1-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 29. (a) This section applies only to a sexually violent predator, including a person who is a sexually violent predator by operation of law for committing an offense under IC 35-38-1-7.5(b).**

**(b) If a court imposes a sentence on a person described in subsection (a) that does not involve a commitment to the department of correction, the court shall order the parole board to place the person on lifetime parole and supervise the person in the same manner that the parole board supervises a sexually violent predator who has been released from imprisonment and placed on lifetime parole under IC 35-50-6-1(e).**

**(c) If a person described in subsection (b) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:**

**(1) supervise the person while the person is being supervised by the other supervising agency; or**

**(2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person;**

**in accordance with IC 35-50-6-1(g).**

SECTION 40. IC 35-38-2-2.2, AS AMENDED BY P.L.173-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.2. As a condition of probation for a sex offender (as defined in ~~IC 11-8-8-5~~ **IC 11-8-8-4.5),** the court shall:

(1) require the sex offender to register with the local law enforcement authority under IC 11-8-8; and

(2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the sex offender obtains written approval from the court.

If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order. **However, a court may not allow a sex offender who is a sexually violent predator (as defined in IC 35-38-1-7.5) or an offender against children under**

**IC 35-42-4-11 to reside within one thousand (1,000) feet of school property.**

SECTION 41. IC 35-38-2-2.5, AS AMENDED BY P.L.173-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

(1) Rape (IC 35-42-4-1).
(2) Criminal deviate conduct (IC 35-42-4-2).
(3) Child molesting (IC 35-42-4-3).
(4) Child exploitation (IC 35-42-4-4(b)).
(5) Vicarious sexual gratification (IC 35-42-4-5).
(6) Child solicitation (IC 35-42-4-6).
(7) Child seduction (IC 35-42-4-7).
(8) Sexual battery (IC 35-42-4-8).
(9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
(10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:
(A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or
(B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or
(2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a new residence within one (1) mile of the residence of the victim of the offender's sex offense unless the offender first obtains a waiver from the:

(1) court, if the offender is placed on probation; or
(2) parole board, if the offender is placed on parole;

for the change of address under subsection (f).

(f) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:

(1) the offender has successfully completed a sex offender treatment program during the period of probation or parole;
(2) the offender is in compliance with all terms of the offender's probation or parole; and
(3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.

However, the court or parole board may not grant a waiver under this

subsection if the offender is a sexually violent predator under IC 35-38-1-7.5 **or if the offender is an offender against children under IC 35-42-4-11.**

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(h) The address of the victim of the offender's sex offense is confidential even if the court or parole board grants a waiver under subsection (f).

SECTION 42. IC 35-42-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A person who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits child molesting, a Class B felony. However, the offense is a Class A felony if:

(1) it is committed by a person at least twenty-one (21) years of age;

(2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(3) it results in serious bodily injury; or

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Class C felony. However, the offense is a Class A felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct, **unless:**

**(1) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;**

**(2) the offense results in serious bodily injury; or**

**(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.**

SECTION 43. IC 35-42-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) As used in this

section:

"Disseminate" means to transfer possession for free or for a consideration.

"Matter" has the same meaning as in IC 35-49-1-3.

"Performance" has the same meaning as in IC 35-49-1-7.

"Sexual conduct" means sexual intercourse, deviate sexual conduct, exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or deviate sexual conduct with an animal, or any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

(b) A person who knowingly or intentionally:

(1) manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;

(2) disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age; or

(3) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age;

commits child exploitation, a Class C felony.

(c) A person who knowingly or intentionally possesses:

(1) a picture;

(2) a drawing;

(3) a photograph;

(4) a negative image;

(5) undeveloped film;

(6) a motion picture;

(7) a videotape;

(8) a digitized image; or

(9) any pictorial representation;

that depicts or describes sexual conduct by a child who **the person knows** is less than sixteen (16) years of age or **who** appears to be less than sixteen (16) years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Class D felony.

(d) Subsections (b) and (c) do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials ~~are~~ **is** for legitimate scientific or educational purposes.

SECTION 44. IC 35-42-4-6, AS AMENDED BY P.L.124-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) As used in this section, "solicit" means to command, authorize, urge, incite, request, or advise an individual:

(1) in person;
(2) by telephone;
(3) in writing;
(4) by using a computer network (as defined in IC 35-43-2-3(a));
(5) by advertisement of any kind; or
(6) by any other means;

to perform an act described in subsection (b) or (c).

(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in:

(1) sexual intercourse;
(2) deviate sexual conduct; or
(3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), **and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).**

(c) A person at least twenty-one (21) years of age who knowingly or intentionally solicits a child at least fourteen (14) years of age but less than sixteen (16) years of age, or an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age, to engage in:

(1) sexual intercourse;
(2) deviate sexual conduct; or
(3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), **and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).**

(d) In a prosecution under this section, including a prosecution for attempted solicitation, the state is not required to prove that the person solicited the child to engage in an act described in subsection (b) or (c) at some immediate time.

SECTION 46. IC 35-42-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits sexual misconduct with a minor, a Class C felony. However, the offense is:

(1) a Class B felony if it is committed by a person at least twenty-one (21) years of age; and
(2) a Class A felony if it is committed by using or threatening the

use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Class D felony. However, the offense is:

(1) a Class C felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Class B felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

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

**(e) It is a defense to a prosecution under this section if all the following apply:**

**(1) The person is not more than four (4) years older than the victim.**

**(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.**

**(3) The crime:**

**(A) was not committed by a person who is at least twenty-one (21) years of age;**

**(B) was not committed by using or threatening the use of deadly force;**

**(C) was not committed while armed with a deadly weapon;**

**(D) did not result in serious bodily injury;**

**(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and**

**(F) was not committed by a person having a position of**

**authority or substantial influence over the victim.**

**(4) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.**

SECTION 47. IC 35-42-4-10, AS ADDED BY P.L.6-2006, SECTION 3, AS ADDED BY P.L.140-2006, SECTION 31, AND AS ADDED BY P.L.173-2006, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. **(a) As used in this section, "offender against children" means a person who is an offender against children under IC 35-42-4-11.**

~~(a)~~ **(b)** As used in this section, "sexually violent predator" ~~*has the meaning set forth in*~~ *means a person who is a sexually violent predator under* IC 35-38-1-7.5.

~~(b)~~ **(c)** A sexually violent predator **or an offender against children** who knowingly or intentionally works for compensation or as a volunteer:

(1) on school property;

(2) at a youth program center; or

(3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under ~~this chapter.~~ **IC 11-8-8.**

SECTION 48. IC 35-42-4-11, AS AMENDED BY P.L.173-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) As used in this section, **and except as provided in subsection (d),** "offender against children" means a person required to register as a sex **or violent** offender under IC 11-8-8 who has been:

(1) found to be a sexually violent predator under IC 35-38-1-7.5; or

(2) convicted of one (1) or more of the following offenses:

(A) Child molesting (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Child solicitation (IC 35-42-4-6).

(D) Child seduction (IC 35-42-4-7).

(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age **and the person is not the child's parent or guardian.**

(F) **Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).**

**(G)** An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through ~~(E)~~ **(F).**

**A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time.**

(b) As used in this section, "reside" means to spend more than ~~two~~ **three** ~~(2)~~ **(3)** nights in:

**(1)** a residence; **or**

**(2) if the person does not reside in a residence, a particular location;**

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property, **not including property of an institution providing post-secondary education;**

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

**(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration, probation, or parole, whichever occurs last. A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered an offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.**

SECTION 49. IC 35-43-1-2, AS AMENDED BY P.L.173-2006, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A person who:

(1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or

(2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

(i) the pecuniary loss is at least two hundred fifty dollars ($250) but less than two thousand five hundred dollars ($2,500);

(ii) the property damaged was a moving motor vehicle;

(iii) the property damaged contained data relating to a person required to register as a sex **or violent** offender under IC 11-8-8 and the person is not a sex **or violent** offender or was not required to register as a sex **or violent** offender;

(iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;

(v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;

(vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or

(vii) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

(i) the pecuniary loss is at least two thousand five hundred dollars ($2,500);

(ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(iii) the damage is to a public record;

(iv) the property damaged contained data relating to a person required to register as a sex **or violent** offender under IC 11-8-8 and the person is a sex **or violent** offender or was required to register as a sex **or violent** offender;

(v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility;

(vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or

(vii) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

(1) a structure used for religious worship;

(2) a school or community center;

(3) the grounds:

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivision (1) or (2); or

(4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars ($250) but less than two thousand five hundred dollars ($2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars ($2,500).

(c) If a person is convicted of an offense under this section that

involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

(1) the person has removed or painted over the graffiti or has made other suitable restitution; and

(2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 50. IC 35-44-3-13, AS ADDED BY P.L.139-2006, SECTION 5, AS ADDED BY P.L.140-2006, SECTION 34, AND AS ADDED BY P.L.173-2006, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a ~~sex~~ crime ~~described in~~ *~~IC 5-2-12-4 IC 11-8-8-5~~* that was committed by the person commits a Class D felony if, at the time of the violation:

(1) the person's lifetime parole has been revoked two (2) or more times; or

(2) the person has completed the person's sentence, including any credit time the person may have earned.

(b) The offense described in subsection (a) is a Class C felony if the person has a prior unrelated conviction under this section.

SECTION 51. IC 35-50-2-2, AS AMENDED BY P.L.151-2006, SECTION 28, AS AMENDED BY P.L.140-2006, SECTION 36, AND AS AMENDED BY P.L.173-2006, SECTION 36, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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) **Except as provided in subsection (i),** 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 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) **except as provided in subsection (i),** child molesting (IC 35-42-4-3) as a Class A or Class B felony, **unless:**

**(i) the felony committed was child molesting as a Class B felony;**

**(ii) the victim was not less than twelve (12) years old at the time the offense was committed;**

**(iii) the person is not more than four (4) years older than the victim, or more than five (5) years older than the victim if the relationship between the person and the victim was a dating relationship or an ongoing personal relationship (not including a family relationship);**

**(iv) the person did not have a position of authority or substantial influence over the victim; and**

**(v) the person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person;**

(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 *or* 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 methamphetamine (IC 35-48-4-1.1) 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 the methamphetamine pure or adulterated 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)~~ *(Q)* 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:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center;

~~(Q)~~ *(R)* 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;

~~(R)~~ *(S)* an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or

~~(S)~~ *(T)* 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*~~ **the sentence of** *a sex* **or violent** ~~offender's~~ **offender** (as defined in ~~*IC 5-2-12-4)*~~ *IC 11-8-8-5)* ~~sentence~~ that is suspendible under subsection (b), the court shall place the *sex* **or violent** 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) *or IC 35-48-4-6.1(b)(1)(B)* may not be suspended.

**(i) If a person is:**

**(1) convicted of child molesting (IC 35-42-4-3) as a Class A felony against a victim less than twelve (12) years of age; and**

**(2) at least twenty-one (21) years of age;**

**the court may suspend only that part of the sentence that is in excess of thirty (30) years.**

SECTION 53. IC 35-50-6-1, AS AMENDED BY P.L.139-2006, SECTION 6, AS AMENDED BY P.L.140-2006, SECTION 38, AND AS AMENDED BY P.L.173-2006, SECTION 38, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to that term, the person shall be:

(1) released on parole for not more than twenty-four (24) months, as determined by the parole board;

(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or

(3) released to the committing court if the sentence included a period of probation.

(b) This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of release until the person's fixed term expires, unless the person's parole is revoked or the person is discharged from that term by the parole board. In any event, if the person's parole is not revoked, the parole board shall discharge the person after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for all or part of the remainder of the person's fixed term. However, the person shall again be released on parole when the person completes that remainder, less the credit time the person has earned since the revocation. The parole board may reinstate the person on parole at any time after the revocation.

(d) This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sex offender (as defined in ~~*IC 5-2-12-4)*~~ ~~*IC 11-8-8-5)*~~ **IC 11-8-8-4.5)** completes the sex offender's fixed term of imprisonment, less credit time earned with respect to that term, the sex offender shall be placed on parole for not more than ten (10) years.

(e) This subsection applies to a person who:

**(1)** is a sexually violent predator under IC 35-38-1-7.5;

**(2) has been convicted of murder (IC 35-42-1-1); or**

**(3) has been convicted of voluntary manslaughter (IC 35-42-1-3).**

When a ~~sexually violent predator~~ **person described in this subsection**

completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person's life.

(f) This subsection applies to a parolee in another jurisdiction who is a ~~sexually violent predator under IC 35-38-1-7.5~~ **person described in subsection (e)** and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who is a ~~sexually violent predator~~ **person described in subsection (e)** and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a ~~sexually violent predator~~ **person described in subsection (e) who was** convicted in Indiana, including:

(1) lifetime parole (as described in subsection (e)); and

(2) the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, if applicable.

(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:

(1) supervise the person while the person is being supervised by the other supervising agency; or

(2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:

(A) at least as stringent; and

(B) at least as effective;

as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole.

**(i) If a court orders the parole board to place a sexually violent predator whose sentence does not include a commitment to the department of correction on lifetime parole under IC 35-38-1-29, the parole board shall place the sexually violent predator on lifetime parole and supervise the person in the same manner in which the parole board supervises a sexually violent predator on lifetime parole whose sentence includes a commitment to the department of correction.**

SECTION 54. IC 36-2-13-5.5, AS AMENDED BY P.L.173-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain an Indiana sex **and violent** offender **registry** web site, known as the Indiana sex **and violent** offender registry, to inform the general

public about the identity, location, and appearance of every sex **or violent** offender residing within Indiana. The web site must provide information regarding each sex **or violent** offender, organized by county of residence. The web site shall be updated at least daily.

(b) The Indiana sex **and violent** offender **registry** web site must include the following information:

(1) A recent photograph of every sex **or violent** offender who has registered with a sheriff after the effective date of this chapter.

(2) The home address of every sex **or violent** offender.

(3) The information required under IC 11-8-8-8.

(c) Every time a sex **or violent** offender registers, but at least once per year, the sheriff shall:

**(1)** photograph the sex **or violent** offender; **and**

**(2) determine whether the sex or violent offender's fingerprints are on file:**

**(A) in Indiana; or**

**(B) with the Federal Bureau of Investigation.**

**If it appears that the sex or violent offender's fingerprints are not on file as described in subdivision (2), the sheriff shall fingerprint the sex or violent offender and transmit a copy of the fingerprints to the state police department.** The sheriff shall place ~~this~~ **the** photograph **described in subdivision (1)** on the Indiana sex **and violent** offender **registry** web site.

(d) The photograph of a sex **or violent** offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex **and violent** offender **registry** web site.

(e) The Indiana sex **and violent** offender **registry** web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21);

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

SECTION 55. IC 36-2-13-5.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2007]: **Sec. 5.6. (a) The legislative body of a county may adopt an ordinance:**

**(1) requiring the local law enforcement authority (as defined in IC 11-8-8-2) to collect:**

**(A) an annual sex or violent offender registration fee; and**

**(B) a sex or violent offender address change fee; and**

**(2) establishing a county sex and violent offender administration fund to fund the administration of the sex and violent offender registration system.**

**(b) If an ordinance is adopted under subsection (a), the legislative body of the county shall establish the amount of the annual sex or violent offender registration fee. However, the annual sex or violent offender registration fee may not exceed fifty dollars ($50).**

**(c) If an ordinance is adopted under subsection (a), the legislative body of the county shall establish the amount of the sex or violent offender address change fee. However, a sex or violent offender address change fee may not exceed five dollars ($5) per address change.**

**(d) The legislative body of the county shall determine the manner in which the local law enforcement authority shall collect the annual sex or violent offender registration fee and the sex or violent offender address change fee. However, the annual sex or violent offender registration fee may be collected only one (1) time per year. The sex or violent offender address change fee may be collected each time a sex or violent offender registers an address change with the local law enforcement authority.**

**(e) The local law enforcement authority shall transfer fees collected under this section to the county auditor of the county in which the local law enforcement authority exercises jurisdiction.**

**(f) The county auditor shall monthly:**

**(1) deposit ninety percent (90%) of any fees collected under this section in the county sex and violent offender administration fund established under subsection (a); and**

**(2) transfer ten percent (10%) of any fees collected under this section to the treasurer of state for deposit in the state sex and violent offender administration fund under IC 11-8-8-21.**

**(g) A county fiscal body may appropriate money from the county sex and violent offender administration fund to an agency or organization involved in the administration of the sex and violent offender registry to defray the expense of administering or ensuring compliance with the laws concerning the Indiana sex and violent offender registry.**

SECTION 56. IC 36-3-1-5.1, AS AMENDED BY P.L.1-2006, SECTION 559, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.1. (a) Except for those duties that are reserved by law to the county sheriff in this section, the city-county legislative body may by majority vote adopt an ordinance, approved by the mayor, to consolidate the police department of the consolidated city and the county sheriff's department.

(b) The city-county legislative body may not adopt an ordinance

under this section unless it first:

(1) holds a public hearing on the proposed consolidation; and

(2) determines that:

(A) reasonable and adequate police protection can be provided through the consolidation; and

(B) the consolidation is in the public interest.

(c) If an ordinance is adopted under this section, the consolidation shall take effect on the date specified in the ordinance.

(d) Notwithstanding any other law, an ordinance adopted under this section must provide that the county sheriff's department shall be responsible for all the following for the consolidated city and the county under the direction and control of the sheriff:

(1) County jail operations and facilities.

(2) Emergency communications.

(3) Security for buildings and property owned by:

(A) the consolidated city;

(B) the county; or

(C) both the consolidated city and county.

(4) Service of civil process and collection of taxes under tax warrants.

(5) Sex **and violent** offender registration.

(e) The following apply if an ordinance is adopted under this section:

(1) The department of local government finance, on recommendation from the local government tax control board, shall adjust the maximum permissible ad valorem property tax levy of the consolidated city and the county for property taxes first due and payable in the year a consolidation takes effect under this section. When added together, the adjustments under this subdivision must total zero (0).

(2) The ordinance must specify which law enforcement officers of the police department and which law enforcement officers of the county sheriff's department shall be law enforcement officers of the consolidated law enforcement department.

(3) The ordinance may not prohibit the providing of law enforcement services for an excluded city under an interlocal agreement under IC 36-1-7.

(4) A member of the county police force who:

(A) was an employee beneficiary of the sheriff's pension trust before the consolidation of the law enforcement departments; and

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department;

remains an employee beneficiary of the sheriff's pension trust. The member retains, after the consolidation, credit in the sheriff's pension trust for service earned while a member of the county police force and continues to earn service credit in the sheriff's pension trust as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the sheriff's pension trust.

(5) A member of the police department of the consolidated city

who:

(A) was a member of the 1953 fund or the 1977 fund before the consolidation of the law enforcement departments; and

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department;

remains a member of the 1953 fund or the 1977 fund. The member retains, after the consolidation, credit in the 1953 fund or the 1977 fund for service earned while a member of the police department of the consolidated city and continues to earn service credit in the 1953 fund or the 1977 fund as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the 1953 fund or the 1977 fund.

(6) The ordinance must designate the merit system that shall apply to the law enforcement officers of the consolidated law enforcement department.

(7) The ordinance must designate who shall serve as a coapplicant for a warrant or an extension of a warrant under IC 35-33.5-2.

(8) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated law enforcement department. The police special service district established under section 6 of this chapter may levy property taxes to provide for the payment of expenses for the operation of the consolidated law enforcement department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-7.5 may be levied only by the police special service district within the police special service district. The consolidated city may not levy property taxes to fund the pension obligation under IC 36-8-7.5. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were members of the police department of the consolidated city on the effective date of the consolidation may be levied only by the police special service district within the police special service district. Property taxes to fund the pension obligation under IC 36-8-10 for members of the sheriff's pension trust and under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were not members of the police department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the consolidated city's maximum permissible ad valorem property tax levy. The assets of the consolidated city's 1953 fund and the assets of the sheriff's pension trust may not be pledged after the effective date of the consolidation as collateral for any loan.

(9) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year following the adoption of the consolidation ordinance and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or

improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the ~~state~~ budget committee.

SECTION 57. IC 36-8-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) This section applies to any county that has a jail commissary that sells merchandise to inmates.

(b) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(c) The sheriff, or ~~his~~ **the sheriff's** designee, shall deposit all money from commissary sales into the fund, which ~~he~~ **the sheriff or the sheriff's designee** shall keep in a depository designated under IC 5-13-8.

(d) The sheriff, or ~~his~~ **the sheriff's** designee, at ~~his~~ **the sheriff's or the sheriff's designee's** discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

(1) merchandise for resale to inmates through the commissary;

(2) expenses of operating the commissary, including, but not limited to, facilities and personnel;

(3) special training in law enforcement for employees of the sheriff's department;

(4) equipment installed in the county jail;

(5) equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, cameras and photographic equipment, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of the employee's official duties;

(6) an activity provided to maintain order and discipline among the inmates of the county jail;

(7) an activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the following:

(A) Substance abuse.

(B) Child abuse.

(C) Domestic violence.

(D) Drinking and driving.

(E) Juvenile delinquency;

(8) expenses related to the establishment, operation, or maintenance of the sex **and violent** offender **registry** web site under IC 36-2-13-5.5; or

(9) any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff.

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1)

through (8).

(e) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall semiannually provide a copy of this record of receipts and disbursements to the county fiscal body. The semiannual reports are due on July 1 and December 31 of each year.

SECTION 58. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).**

**(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:**

**(1) ensure that sentencing laws and policies protect the public safety;**

**(2) establish fairness and uniformity in sentencing laws and policies;**

**(3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and**

**(4) maximize cost effectiveness in the administration of sentencing laws and policies.**

**(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:**

**(1) the purposes of the criminal justice and corrections systems;**

**(2) the availability of sentencing options; and**

**(3) the inmate population in department of correction facilities.**

**If, based on the committee's evaluation under this subsection, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.**

**(d) The committee shall do the following:**

**(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:**

**(A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.**

**(B) The deterrent effect a particular classification may have on the commission of the offense.**

**(C) The current incidence of the offense in Indiana.**

**(D) The rights of the victim.**

**(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:**

**(A) The nature and characteristics of the offense.**
**(B) The severity of the offense in relation to other offenses.**
**(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.**
**(D) The number of the defendant's prior convictions.**
**(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.**
**(F) The rights of the victim.**

**The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.**

**(3) Review community corrections and home detention programs for the purpose of:**
**(A) standardizing procedures and establishing rules for the supervision of home detainees; and**
**(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.**

**(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.**

**(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.**

**(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.**

**(7) Recommend a comprehensive community corrections strategy based on the following:**
**(A) A review of existing community corrections programs.**
**(B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.**
**(C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.**
**(D) The identification of necessary changes in state oversight and coordination of community corrections programs.**
**(E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.**
**(F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.**

**(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.**

**(9) Evaluate the use of faith based organizations as an alternative to incarceration.**

**(10) Study issues related to sex offenders, including:**

**(A) lifetime parole;**

**(B) GPS or other electronic monitoring;**

**(C) a classification system for sex offenders;**

**(D) recidivism; and**

**(E) treatment.**

**(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair. The committee may meet as often as necessary.**

**(f) The committee consists of twenty (20) members appointed as follows:**

**(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.**

**(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.**

**(3) The chief justice of the supreme court or the chief justice's designee.**

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

**(5) The director of the Indiana criminal justice institute or the director's designee.**

**(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.**

**(7) The executive director of the public defender council of Indiana or the executive director's designee.**

**(8) One (1) person with experience in administering community corrections programs, appointed by the governor.**

**(9) One (1) person with experience in administering probation programs, appointed by the governor.**

**(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.**

**(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.**

**(12) One (1) board certified psychologist or psychiatrist who has expertise in treating sex offenders, appointed by the governor to act as a nonvoting advisor to the committee.**

**(g) The chairman of the legislative council shall appoint a legislative member of the committee to serve as the chairperson of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chairperson of the committee and appoint another chairperson.**

**(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.**

**(i) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.**

**(j) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.**

**(k) The committee shall submit:**

**(1) an interim report of the results of its study to the legislative council before November 1, 2008; and**

**(2) a final report of the results of its study to the legislative council before November 1, 2010.**

**The interim and final reports must be in an electronic format under IC 5-14-6.**

**(l) The Indiana criminal justice institute shall provide staff support to the committee.**

**(m) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.**

**(n) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including the final report.**

**(o) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.**

**(p) This SECTION expires December 31, 2010.**

SECTION 59. [EFFECTIVE JULY 1, 2007] **IC 35-38-1-29, as added by this act, and IC 11-8-8-17, IC 11-8-8-18, IC 35-42-4-3, IC 35-42-4-6, IC 35-42-4-9, IC 35-42-4-10, IC 35-42-4-11, IC 35-44-3-13, IC 35-50-6-1(e), and IC 35-50-6-1(i), all as amended by this act, apply only to offenses committed after June 30, 2007.**

SECTION 60. **An emergency is declared for this act.**

(Reference is to EHB 1386 as reprinted April 6, 2007.)

# Conference Committee Report
**on**
# Engrossed House Bill 1386

Signed by:

| | |
|---|---|
| _____ | _____ |
| Representative Lawson L<br>Chairperson | Senator Bray |
| _____ | _____ |
| Representative Foley | Senator Arnold |
| **House Conferees** | **Senate Conferees** |