SENATE BILL No. 345

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2; IC 12-7-2; IC 12-13; IC 12-18; IC 33-37; IC 35-42-3.5-4.

Synopsis: Domestic violence programs. Transfers the administration of sexual offense services, domestic violence programs, the assistance to victims of human and sexual trafficking, the domestic violence prevention and treatment council, the domestic violence prevention and treatment fund, and the family violence and victim assistance fund to the criminal justice institute. Makes conforming changes. Repeals the current law concerning the domestic violence prevention and treatment council, the domestic violence prevention and treatment fund, and the family violence and victim assistance fund.

Effective: June 30, 2009; July 1, 2009.

Becker, Lawson C

January 8, 2009, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 116th General Assembly (2009)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 345

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.107-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:

(A) the prevention, detection, and solution of criminal offenses;

(B) law enforcement; and

(C) the administration of criminal and juvenile justice.

(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute

under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities 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.

(13) Establish, maintain, and operate, subject to specific appropriation by the general assembly, a web site containing a list of properties (as defined in IC 5-2-6-19(b)) that have been used as the site of a methamphetamine laboratory.

(14) Develop and manage the gang crime witness protection program established by section 21 of this chapter.

(15) Identify grants and other funds that can be used to fund the gang crime witness protection program.

(16) After December 31, 2008, administer the licensing of:

(A) commercial driver training schools; and

(B) instructors at commercial driver training schools.

(17) Administer any sexual offense services.

(18) Administer domestic violence programs.

(19) Administer assistance to victims of human sexual trafficking offenses as provided in IC 35-42-3.5-4.

(20) Administer the domestic violence prevention and treatment fund under IC 5-2-6.7.

(21) Administer the family violence and victim assistance fund under IC 5-2-6.8.

SECTION 2. IC 5-2-6-14, AS AMENDED BY P.L.216-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: 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.~~

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IC 5-2-6.8-3.

(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 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 5-2-6.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6.6. Domestic Violence Prevention and Treatment Council

Sec. 1. As used in this chapter, "council" refers to the domestic violence prevention and treatment council established by section 3 of this chapter.

Sec. 2. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

Sec. 3. (a) The domestic violence prevention and treatment council is established within the division.

(b) The division shall provide staff support to the council.

Sec. 4. The council consists of eleven (11) members appointed by the governor. Each member must have experience and knowledge with regard to the problems of domestic violence. The members

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must include the following:

(1) A domestic violence services provider.

(2) A survivor of domestic violence.

(3) A member recommended by the Indiana Coalition Against Domestic Violence.

(4) A member recommended by the Indiana Coalition Against Sexual Assault.

(5) A law enforcement officer.

(6) A member recommended by the prosecuting attorneys council of Indiana.

(7) A mental health professional.

(8) A medical professional.

(9) A provider of services to children who are victims of abuse or neglect.

(10) A representative of a certified batterers intervention program.

(11) A faculty member of an accredited college or university.

Sec. 5. A member serves a term of three (3) years, with each term beginning July 1 and ending June 30.

Sec. 6. A member may be removed by the governor for cause.

Sec. 7. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.

Sec. 8. Each member of the council is entitled to the following:

(1) The minimum salary per diem provided in IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 9. The governor shall designate one (1) member to preside over the initial meeting of the council each year. At the first meeting of the council each year, members shall elect a chairperson for the subsequent twelve (12) month period.

Sec. 10. The council shall do the following:

(1) Coordinate and monitor programs for the domestic violence prevention and treatment fund under IC 5-2-6.7.

(2) Develop and implement a state plan to provide services for the prevention and treatment of domestic violence.

(3) Review and recommend to the division the approval or disapproval of grants or contracts in accordance with IC 5-2-6.7.

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(4) Develop and recommend a plan to coordinate funding of domestic violence and sexual assault programs.

(5) Recommend to the division rules to be adopted by the division under IC 4-22-2 to carry out this chapter.

SECTION 4. IC 5-2-6.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6.7. Domestic Violence Prevention and Treatment Fund

Sec. 1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

Sec. 2. As used in this chapter, "domestic violence prevention and treatment center" means an organized entity:

(1) established by:

(A) a city, town, county, or township; or

(B) an entity exempted from the gross retail tax under IC 6-2.5-5-21(b)(1)(B); and

(2) created to provide services to prevent and treat domestic or family violence.

Sec. 3. As used in this chapter, "fund" refers to the domestic violence prevention and treatment fund established by this chapter.

Sec. 4. The domestic violence prevention and treatment fund is established.

Sec. 5. The division shall administer the fund.

Sec. 6. Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Transfers from the family violence and victim assistance fund established by IC 5-2-6.8-3.

(3) Donations, gifts, and money received from any other source.

Sec. 7. 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 funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 8. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 9. A city, town, county, or township or an entity that is exempted from the gross retail tax under IC 6-2.5-5-21(b)(1)(B) that desires to receive a grant under this chapter or enter into a contract with the domestic violence prevention and treatment council established under IC 5-2-6.6 must apply in the manner prescribed by the rules of the division.

Sec. 10. The division may make grants to and enter into

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contracts with entities eligible under section 9 of this chapter. However, the division may not grant more than seventy-five percent (75%) of the money necessary for the establishment or maintenance of a domestic violence prevention and treatment center during a specified time. The amount granted by the division for use by a single domestic violence and prevention treatment center may not exceed one hundred thousand dollars ($100,000) each year.

Sec. 11. The division may use money from the fund when awarding a grant or entering into a contract under this chapter if the money is used for the support of a program designed to do any of the following:

(1) Establish or maintain a domestic violence prevention and treatment center offering the services listed in section 12 of this chapter.

(2) Develop and establish a training program for professional, paraprofessional, and volunteer personnel who are engaged in areas related to the problems of domestic violence.

(3) Conduct research necessary to develop and implement programs for the prevention and treatment of domestic violence.

(4) Develop and implement other means for the prevention and treatment of domestic violence.

Sec. 12. An entity eligible under section 9 of this chapter may not receive money under this chapter for purposes of establishing and maintaining a domestic violence prevention and treatment center unless the center furnishes, agrees to furnish, or arranges with a third party to furnish all of the following services:

(1) Emergency shelter, provided either at the center or by arrangement at temporary residential facilities available in the community, that is available to a person who fears domestic or family violence.

(2) A twenty-four (24) hour telephone system to provide crisis assistance to a person threatened by domestic or family violence.

(3) Emergency transportation services if necessary to aid victims of domestic or family violence.

(4) Information, referral, and victim advocacy services in the areas of health care assistance, social and mental health services, family counseling, job training and employment opportunities, legal assistance, and counseling for dependent children.

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Sec. 13. The division may use money from the fund to hire the staff necessary to carry out this chapter.

Sec. 14. The division may enter into an agreement with a person for the receipt of money consistent with this chapter.

SECTION 5. IC 5-2-6.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6.8. Family Violence and Victim Assistance Fund

Sec. 1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

Sec. 2. As used in this chapter, "fund" refers to the family violence and victim assistance fund established by this chapter.

Sec. 3. The family violence and victim assistance fund is established.

Sec. 4. The purpose of the fund is to provide funding for domestic violence prevention and treatment, child abuse prevention, and victim and witness assistance programs.

Sec. 5. The division shall administer the fund.

Sec. 6. The sources of the fund include the following:

(1) Amounts deposited under IC 33-37-7-9.

(2) Amounts distributed from the state user fee fund under IC 33-37-9-4(a)(7).

Sec. 7. On June 30 and December 31 of each year, the treasurer of state shall transfer money from the fund as follows:

(1) Fifty-five percent (55%) of the balance on deposit in the fund or two hundred forty-five thousand dollars ($245,000), whichever is greater, shall be deposited in the domestic violence prevention and treatment fund established under IC 5-2-6.7.

(2) The balance in the fund after the transfer of money under subdivision (1) shall be deposited as follows:

(A) One-third (1/3) shall be deposited in the Indiana kids first trust fund established by IC 31-26-4-12.

(B) Two-thirds (2/3) shall be deposited in the victim and witness assistance fund established by IC 5-2-6-14.

SECTION 6. IC 12-7-2-44, AS AMENDED BY P.L.93-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 44. "Council" means the following:

(1) For purposes of IC 12-9-4, the meaning set forth in IC 12-9-4-1.

(2) For purposes of IC 12-12-8, the meaning set forth in IC 12-12-8-2.5.

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(3) For purposes of IC 12-13-4, the meaning set forth in IC 12-13-4-1.

(4) For purposes of IC 12-15-41 and IC 12-15-42, the Medicaid work incentives council established by IC 12-15-42-1.

(5) For purposes of IC 12-12.7-2, the meaning set forth in IC 12-12.7-2-2.

~~(6) For purposes of IC 12-18-3 and IC 12-18-4, the domestic violence prevention and treatment council established by IC 12-18-3-1.~~

~~(7)~~ **(6)** For purposes of IC 12-21-4, the meaning set forth in IC 12-21-4-1.

~~(8)~~ **(7)** For purposes of IC 12-28-5, the meaning set forth in IC 12-28-5-1.

SECTION 7. IC 12-7-2-91, AS AMENDED BY P.L.146-2008, SECTION 380, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 91. "Fund" means the following:

(1) For purposes of IC 12-12-1-9, the fund described in IC 12-12-1-9.

(2) For purposes of IC 12-15-20, the meaning set forth in IC 12-15-20-1.

(3) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-4.

(4) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-3.

~~(5) For purposes of IC 12-18-4, the meaning set forth in IC 12-18-4-1.~~

~~(6) For purposes of IC 12-18-5, the meaning set forth in IC 12-18-5-1.~~

~~(7)~~ **(5)** For purposes of IC 12-23-2, the meaning set forth in IC 12-23-2-1.

~~(8)~~ **(6)** For purposes of IC 12-23-18, the meaning set forth in IC 12-23-18-4.

~~(9)~~ **(7)** For purposes of IC 12-24-6, the meaning set forth in IC 12-24-6-1.

~~(10)~~ **(8)** For purposes of IC 12-24-14, the meaning set forth in IC 12-24-14-1.

~~(11)~~ **(9)** For purposes of IC 12-30-7, the meaning set forth in IC 12-30-7-3.

SECTION 8. IC 12-13-5-2, AS AMENDED BY P.L.1-2007, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The division shall administer the following:

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~~(1) Any sexual offense services.~~
~~(2)~~ **(1)** A child development associate scholarship program.
~~(3)~~ **(2)** Any school age dependent care program.
~~(4)~~ **(3)** Migrant day care services.
~~(5)~~ **(4)** Prevention services to high risk youth.
~~(6)~~ **(5)** The migrant nutrition program.
~~(7)~~ **(6)** The home visitation and social services program.
~~(8)~~ **(7)** The educational consultants program.
~~(9)~~ **(8)** Community restitution or service programs.
~~(10)~~ **(9)** The crisis nursery program.
~~(11) Domestic violence programs.~~
~~(12)~~ **(10)** Social services programs.
~~(13)~~ **(11)** The step ahead comprehensive early childhood grant program.
~~(14) Assistance to victims of human and sexual trafficking offenses as provided in IC 35-42-3.5-4, as appropriate.~~
~~(15)~~ **(12)** Any other program:
(A) designated by the general assembly; or
(B) administered by the federal government under grants consistent with the duties of the division.

SECTION 9. IC 12-13-7-1, AS AMENDED BY P.L.181-2006, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The division shall administer the following:

~~(1) The domestic violence prevention and treatment fund under IC 12-18-4.~~
~~(2)~~ **(1)** The Child Care and Development Block Grant under 42 U.S.C. 9858 et seq.
~~(3)~~ **(2)** The federal Food Stamp Program under 7 U.S.C. 2011 et seq.
~~(4)~~ **(3)** Title IV-A of the federal Social Security Act.
~~(5)~~ **(4)** Any other funding source:
(A) designated by the general assembly; or
(B) available from the federal government under grants that are consistent with the duties of the division.

SECTION 10. IC 33-37-7-9, AS AMENDED BY P.L.122-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state nine million two hundred seventy-seven thousand twenty-three dollars ($9,277,023) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year, the treasurer of state shall deposit into:

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(1) the family violence and victim assistance fund established by ~~IC 12-18-5-2~~ **IC 5-2-6.8-3** an amount equal to eight and three-hundredths percent (8.03%);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to thirty-eight and fifty-five hundredths percent (38.55%);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to two and fifty-six hundredths percent (2.56%);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ten and twenty-seven hundredths percent (10.27%);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to eleven and ninety-three hundredths percent (11.93%);

(6) the motor vehicle highway account an amount equal to nineteen and forty-nine hundredths percent (19.49%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to twenty-five hundredths percent (0.25%);

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to one and sixty-three hundredths percent (1.63%); and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to seven and twenty-nine hundredths percent (7.29%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars ($1,700,000); and

(2) after June 30, 2005, two million seven hundred thousand dollars ($2,700,000).

SECTION 11. IC 33-37-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The treasurer of state shall distribute semiannually one million two hundred eighty-eight thousand dollars ($1,288,000) of the amounts transferred to the state fund under section 3 of this chapter as follows:

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(1) Fourteen and ninety-eight hundredths percent (14.98%) shall be deposited into the alcohol and drug countermeasures fund established by IC 9-27-2-11.

(2) Eight and forty-two hundredths percent (8.42%) shall be deposited into the drug interdiction fund established by IC 10-11-7-1.

(3) Four and sixty-eight hundredths percent (4.68%) shall be deposited into the drug prosecution fund established by IC 33-39-8-6.

(4) Five and sixty-two hundredths percent (5.62%) shall be deposited into the corrections drug abuse fund established by IC 11-8-2-11.

(5) Twenty-two and forty-seven hundredths percent (22.47%) shall be deposited into the state drug free communities fund established by IC 5-2-10-2.

(6) Seven and ninety-eight hundredths percent (7.98%) shall be distributed to the Indiana department of transportation for use under IC 8-23-2-15.

(7) Twenty and thirty-two hundredths percent (20.32%) shall be deposited in the family violence and victim assistance fund established by ~~IC 12-18-5-2.~~ **IC 5-2-6.8-3.**

(8) Fifteen and fifty-three hundredths percent (15.53%) shall be deposited in the Indiana safe schools fund established by IC 5-2-10.1.

(b) The treasurer of state shall distribute semiannually the amount remaining after the distributions are made under subsection (a) to the judicial technology and automation project fund established by IC 33-24-6-12.

SECTION 12. IC 35-42-3.5-4, AS ADDED BY P.L.173-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) An alleged victim of an offense under section 1 of this chapter:

(1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;

(2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and

(3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:

(A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly

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committed the offense or the person's agent; and

(B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the ~~division of family resources,~~ **Indiana criminal justice institute** as appropriate.

(b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under section 1 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 12-7-2-70; IC 12-18-3; IC 12-18-4; IC 12-18-5.

SECTION 14. [EFFECTIVE JUNE 30, 2009] **(a) On June 30, 2009, the balance of the domestic violence prevention and treatment fund established under IC 12-18-4, before its repeal by this act, shall be transferred to the domestic violence prevention and treatment fund established by IC 5-2-6.7-4, as added by this act.**

(b) This SECTION expires January 1, 2010.

SECTION 15. [EFFECTIVE JUNE 30, 2009] **(a) On June 30, 2009, the balance of the family violence and victim assistance fund established under IC 12-18-5, before its repeal by this act, shall be transferred to the family violence and victim assistance fund established by IC 5-2-6.8-3, as added by this act.**

(b) This SECTION expires January 1, 2010.

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