SENATE BILL No. 561

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-8-1; IC 11-10; IC 11-12; IC 11-13; IC 11-14-1-5; IC 34-30; IC 35-32-2-2; IC 35-38; IC 35-41-1-8.3; IC 35-43; IC 35-48-4; IC 35-50-2; P.L.182-2009(ss), SECTION 493.

Synopsis: Corrections and sentencing. Requires the department of correction to: (1) determine the average daily marginal cost of incarcerating an offender; (2) determine the average length of stay for a Class D felony offender in the department; and (3) administer an incentive and disincentive program for counties to reduce the number of Class D felony offenders committed to the department. Requires the judicial conference to adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation. Establishes the substance abuse treatment fund administered by the department of correction to award grants to probation departments to increase substance abuse treatment access for persons on probation who have substance abuse addictions. Requires the department of correction to: (1) supervise parolees who were sentenced by a court in Indiana for murder, a Class A felony, a sex offense, or incest; (2) assist all parolees sentenced by a court in Indiana; and (3) supervise and assist out-of-state parolees accepted under an interstate compact as required by the interstate compact. Provides that when a court imposes a sentence on a specified type of offender, the court shall suspend part of the sentence and require the offender to serve the suspended period on probation, in a community corrections program, or in a problem solving court program. Requires the board of directors of the judicial conference of Indiana to adopt rules to establish standards of probation supervision provided by probation departments based on validated risk assessments of offenders. Establishes the probation improvement fund administered by the department of correction to award grants based on a recommendation by the judicial

(Continued next page)

Effective: July 1, 2011.

Steele, Bray, Hume, Head, Taylor

January 20, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

C o p y

conference of Indiana to: (1) county probation departments that supervise persons convicted of a felony to promote the adoption of certain best practices to improve probation administration and services and reduce probation revocations; and (2) counties that supervise persons who have been convicted of a felony to consolidate and improve the efficiency of probation administration and services and community corrections programs contingent on the ability of a county probation department to demonstrate a minimal level of coordination with other offender supervision agencies operating in the same county, including community corrections programs, parole authorities, and other probation agencies. Requires local and state community corrections programs to use services, programs, and practices that reduce recidivism rates, as demonstrated by scientific research, among persons who participate in community corrections programs. Requires community corrections boards to coordinate or operate educational, mental health, drug or alcohol abuse counseling, housing, and supervision services for persons participating in community corrections programs. Provides that money received by a community corrections program or community transition program from the state may be used only to provide community corrections or community transition services for persons who have been convicted of a felony. Provides that any user fees collected: (1) by a community corrections program that is funded in whole or in part by money received from the state; and (2) from persons who have been convicted of a felony; may be used only to provide services for persons who have been convicted of a felony. Provides that if the department of correction establishes or contracts for the establishment of a community corrections program, the program may provide services only for persons who have been convicted of a felony. Provides that any home detention user fees collected: (1) by a community corrections program that provides supervision of home detention and is funded in whole or in part by money received from the state; and (2) from persons who have been convicted of a felony; may be used only to provide home detention services for persons who have been convicted of a felony. Removes certain Class D felonies from the list of felonies for which a court may suspend only the part of the sentence that exceeds the minimum sentence. Repeals the statute prohibiting the suspension of certain felony sentences if the person has a juvenile record. Removes certain habitual traffic violator statutes from the list of crimes that are not suspendible. Defines "defraud" for purposes of criminal law. Makes theft: (1) a Class A misdemeanor if the amount of property involved in the theft is less than $750; (2) a Class D felony if the amount is between $750 and $50,000 or if the person has a prior conviction; and (3) a Class C felony if the amount of property is at least $50,000. Removes provisions relating to receiving stolen property. Makes forgery a Class D felony. Consolidates certain duplicative provisions and makes enhancements to certain crimes more uniform. Requires the criminal code evaluation commission to study truth in sentencing, good time credit and earned credit time, and felony classifications during the 2011 interim. Specifies that a person who possesses: (1) up to ten grams of cocaine or methamphetamine commits a Class D felony; (2) from ten to 28 grams of cocaine or methamphetamine commits a Class C felony; and (3) more than 28 grams of cocaine or methamphetamine commits a Class B felony. Provides that a person who manufactures or deals: (1) up to ten grams of cocaine, methamphetamine, or a schedule I-III controlled substance (or up to 24 pills of a schedule I-III controlled substance in pill form) commits a Class C felony; (2) from ten to 28 grams of cocaine, methamphetamine, or a schedule I-III controlled substance (or from 24 to 72 pills of a schedule I-III controlled substance in pill form) commits

(Continued next page)

C o p y

Digest Continued

a Class B felony; and (3) more than 28 grams of cocaine, methamphetamine, or a schedule I-III controlled substance (or more than 72 pills of a schedule I-III controlled substance in pill form) commits a Class A felony. Provides additional sentence enhancements if the person possesses or deals the cocaine, methamphetamine, or schedule I-III controlled substance: (1) on a school bus; (2) near a school, park, public housing facility, or youth program center; (3) to certain minors; or (4) while also possessing a firearm. Makes an appropriation. Repeals auto theft (same offense as theft) and terroristic deception (consolidated in other provisions). (The introduced version of this bill was prepared by the criminal code evaluation commission.)

C o p y

Introduced

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C o p y

SENATE BILL No. 561

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure and to make an appropriation.

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

SECTION 1. IC 11-8-1-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 3.1. "Average daily marginal cost of incarcerating an offender" means the average daily cost to the department to commit one (1) additional offender to the department without building additional beds as determined under IC 11-10-13-1(b).**

SECTION 2. IC 11-8-1-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.6. "Community transition program commencement date" means the following:

(1) Not earlier than sixty (60) days and not later than thirty (30) days before an offender's expected release date, if the most serious offense for which the person is committed is a Class D felony.

(2) Not earlier than ninety (90) days and not later than thirty (30) days before an offender's expected release date, if the most

serious offense for which the person is committed is a Class C felony and subdivision (3) does not apply.

(3) Not earlier than one hundred twenty (120) days and not later than thirty (30) days before an offender's expected release date, if:

(A) the most serious offense for which the person is committed is a Class C felony;

(B) all of the offenses for which the person was concurrently or consecutively sentenced are offenses under IC 16-42-19 or IC 35-48-4; and

(C) none of the offenses for which the person was concurrently or consecutively sentenced are listed in ~~IC 35-50-2-2(b)(4).~~ **IC 35-50-2-2(b)(3).**

(4) Not earlier than one hundred twenty (120) days and not later than thirty (30) days before an offender's expected release date, if the most serious offense for which the person is committed is a Class A or Class B felony and subdivision (5) does not apply.

(5) Not earlier than one hundred eighty (180) days and not later than thirty (30) days before an offender's expected release date, if:

(A) the most serious offense for which the person is committed is a Class A or Class B felony;

(B) all of the offenses for which the person was concurrently or consecutively sentenced are offenses under IC 16-42-19 or IC 35-48-4; and

(C) none of the offenses for which the person was concurrently or consecutively sentenced are listed in ~~IC 35-50-2-2(b)(4).~~ **IC 35-50-2-2(b)(3).**

SECTION 3. IC 11-10-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. **(a)** The department shall develop a methodology for determining the average daily cost of incarcerating an offender.

(b) The department shall develop a methodology for determining the average daily marginal cost of incarcerating an offender. The costs must include the additional expenses of providing food, clothing, and health care to a new offender. The costs do not include the costs of new facilities or additional staff.

(c) The department shall annually determine the average length of stay for a Class D felony offender in the department.

SECTION 4. IC 11-10-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 16. County Incentives for Class D Felony Offenders

Sec. 1. The department shall administer an incentive and

C o p y

disincentive program for counties to reduce the number of Class D felony offenders committed to the department.

Sec. 2. (a) The department shall establish a baseline average number of Class D felony offenders that each county commits annually to the department based on the 2007, 2008, 2009, and 2010 calendar years.

(b) The department shall provide an incentive to each county that commits to the department fewer Class D felony offenders than the baseline average established for that county described in subsection (a) in one (1) calendar year.

(c) The department shall calculate the incentive described in subsection (b) using the following formula:

STEP ONE: Subtract the number of Class D felony offenders a county commits to the department in a calendar year from the baseline average for that county described in subsection (a).

STEP TWO: Multiply the number of offenders determined under STEP ONE by the average number of days of the length of stay for a Class D felony offender in the department as determined under IC 11-10-13-1(c).

STEP THREE: Multiply the amount determined under STEP TWO by the average daily marginal cost of incarcerating an offender determined under IC 11-10-13-1(b).

STEP FOUR: Multiply the amount determined under STEP THREE by fifty percent (50%).

(d) The department shall not consider a Class D felony offender whose probation has been revoked in the calculations under this chapter.

Sec. 3. The incentive described in section 2 of this chapter shall be distributed to a county's legislative body, which shall redistribute the incentive to:

(1) probation programs;

(2) work release programs;

(3) community corrections programs; or

(4) problem solving courts.

Sec. 4. (a) The department shall create a disincentive to each county that commits to the department more Class D felony offenders than the baseline average established for that county described in section 2(a) of this chapter in one (1) calendar year.

(b) The department shall calculate the disincentive described in subsection (a) using the following formula:

STEP ONE: Subtract the baseline average for that county

C o p y

described in section 2(a) of this chapter from the number of Class D felony offenders a county commits to the department in a calendar year.

STEP TWO: Multiply the number of offenders determined under STEP ONE by the average number of days of the length of stay for a Class D felony offender in the department as determined under IC 11-10-13-1(c).

STEP THREE: Multiply the amount determined under STEP TWO by the average daily marginal cost of incarcerating an offender as determined under IC 11-10-13-1(b).

STEP FOUR: Multiply the amount determined under STEP THREE by fifty percent (50%).

(c) The department shall not consider a Class D felony offender whose probation has been revoked in the calculations under this chapter.

Sec. 5. The department shall withhold the amount of the disincentive described in section 4 of this chapter from the amount of money the department is required to deposit in a county's misdemeanant fund under IC 11-12-6.

Sec. 6. The department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 5. IC 11-12-1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter ~~may include the following:~~

~~(1) Residential or work release programs.~~

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

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

~~(4) Victim-offender reconciliation programs.~~

~~(5) Jail services programs.~~

~~(6) Jail work crews.~~

~~(7) Community work crews.~~

~~(8) Juvenile detention alternative programs.~~

~~(9) Day reporting programs.~~

~~(10) Faith based programs.~~

~~(11) Other community corrections programs approved by the department.~~

shall use services, programs, and practices that reduce recidivism rates, as demonstrated by scientific research, among persons who participate in the community corrections programs.

(b) The community corrections board ~~may~~ **shall** also coordinate ~~and~~

C o p y

or operate educational, mental health, drug or alcohol abuse counseling, housing, as a part of any ~~of these~~ programs, ~~or~~ **and** supervision services for persons described in section 2 of this chapter.

SECTION 6. IC 11-12-2-1, AS AMENDED BY P.L.105-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system and providing effective alternatives to imprisonment at the state level, the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections programs. Appropriations intended for this purpose:

(1) may not be used by the department for any other purpose; **and**

(2) may be used by grant recipients only to provide community corrections program services for persons who have been convicted of a felony.

Money appropriated to the department of correction for the purpose of making grants under this chapter and any financial aid payments suspended under section 6 of this chapter do not revert to the state general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants under this chapter.

(b) The commissioner shall give priority in issuing community corrections grants to programs that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities.

SECTION 7. IC 11-12-2-5, AS AMENDED BY P.L.105-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The department shall do the following:

(1) Provide consultation and technical assistance to counties to aid in the development of community corrections plans.

(2) Provide training for community corrections personnel and board members to the extent funds are available.

(3) Adopt under IC 4-22-2 rules governing application by counties for financial aid under this chapter, including the content of community corrections plans.

(4) Adopt under IC 4-22-2 rules governing the disbursement of monies to a county and the county's certification of expenditures, **including rules that:**

(A) require that any money received from the state to fund a community corrections program may be used only to provide services for persons who have been convicted of a felony; and

(B) require that any user fees collected:

C o p y

(i) by a community corrections program that is funded in whole or in part by money received from the state; and

(ii) from persons who have been convicted of a felony;

may be used only to provide services for persons who have been convicted of a felony.

(5) Adopt under IC 4-22-2 minimum standards for the establishment, operation, and evaluation of programs receiving financial aid under this chapter. (These standards must be sufficiently flexible to foster the development of new and improved correctional practices.)

(6) Examine and either approve or disapprove applications for financial aid. The department's approval or disapproval must be based on this chapter and the rules adopted under this chapter.

(7) Keep the budget agency informed of the amount of appropriation needed to adequately fund programs under this chapter.

(8) Adopt under IC 4-22-2 a formula or other method of determining a participating county's share of funds appropriated for purposes of this chapter. This formula or method must be approved by the budget agency before the formula is adopted and must be designed to accurately reflect a county's correctional needs and ability to pay.

(9) Keep counties informed of money appropriated for the purposes of this chapter.

(10) Provide an approved training curriculum for community corrections field officers.

(11) Require community corrections programs to submit in proposed budget requests an evaluation of the use of department approved best practices for each community corrections program component.

(b) The commissioner may do the following:

(1) Visit and inspect any program receiving financial aid under this chapter.

(2) Require a participating county or program to submit information or statistics pertinent to the review of applications and programs.

(3) Expend up to three percent (3%) of the money appropriated to the department for community correction grants to provide technical assistance, consultation, and training to counties and to monitor and evaluate program delivery.

(c) Notwithstanding any law prohibiting advance payments, the

C o p y

department of correction may advance grant money to a county or group of counties in order to assist a community corrections program. However, not more than twenty-five percent (25%) of the amount awarded to a county or group of counties may be paid in advance.

(d) The commissioner shall disburse no more funds to any county under this chapter than are required to fund the community corrections plan.

SECTION 8. IC 11-12-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) A community corrections fund is established in each community having a community corrections program. The fund shall be administered by the community corrections advisory board in accordance with rules adopted by the department under subsection (c). The expenses of administering the fund shall be paid from money in the fund. Money in the fund at the end of a fiscal year does not revert to any other fund. The fund consists of fees deposited under subsection (b). Money in the fund may be used only for the provision of community corrections program services, including services allowed under IC 11-12-2-5(b)(3).

(b) In addition to user fees collected under IC 31-40, IC 35-38-2-1, or any other user fee collected from a participant in a community corrections program by an agency or program, a community corrections program may collect from a participant a user fee assessed in accordance with rules adopted under subsection (c). Community corrections user fees collected under this section shall be deposited into the community corrections fund established by this section.

(c) The department shall adopt rules under IC 4-22-2 governing the following:

(1) The maximum amount that a community corrections program or a court may assess as a user fee under subsection (b) or IC 35-38-2.5-6.

(2) Administration by community corrections advisory boards of community corrections funds and the community corrections home detention fund, including criteria for expenditures from the funds.

(3) A requirement that any user fees collected:

(A) by a community corrections program that is funded in whole or in part by money received from the state; and

(B) from persons who have been convicted of a felony;

may be used only to provide services for persons who have been convicted of a felony.

SECTION 9. IC 11-12-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. **(a)** The department

C o p y

may:

(1) establish and operate community corrections programs if these programs are not being provided at the local level; and

(2) contract with any public or private agency approved by the commissioner, or any combination of those agencies, for the provision of community based services to committed persons, including the furnishing of custody, supervision, care, training, and reintegration.

(b) A community corrections program established or contracted for under subsection (a):

(1) shall use services, programs, and practices that reduce recidivism rates, as demonstrated by scientific research, among persons who participate in the community corrections program; and

(2) may provide services only for persons who have been convicted of a felony.

SECTION 10. IC 11-12-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. **Except as provided in IC 11-10-16-5,** before September 1 of each year after 1998, the department shall deposit in the misdemeanant fund of each county the greatest of the following:

(1) The sum determined by multiplying the total amount appropriated for the county misdemeanant fund by the county's multiplier.

(2) The minimum allocation amount assigned to the county under section 11.1(a) of this chapter.

(3) After state fiscal year 1999, the amount deposited by the department in the misdemeanant fund for the county in state fiscal year 1999.

SECTION 11. IC 11-12-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. The fund consists of:

(1) home detention user fees deposited into the fund under IC 35-38-2.5-8;

(2) home detention supervision grants to the community corrections program made by the department under IC 11-12-2-1 for the purpose of funding supervision of home detention by a community corrections program **involving persons who have been convicted of a felony;** and

(3) amounts deposited into the fund under IC 11-12-1-3.

SECTION 12. IC 11-12-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. A community corrections program that provides supervision of home detention under

C o p y

IC 35-38-2.5-5 shall annually submit a budget of its operating expenses for home detention supervision to the fiscal body of the county. Based on the budget submitted, the fiscal body of the county shall appropriate from the community corrections home detention fund amounts necessary to maintain supervision of home detention by the community corrections program. **However, any home detention user fees collected:**

(1) by a community corrections program that:

(A) provides supervision of home detention under IC 35-38-2.5-5; and

(B) is funded in whole or in part by money received from the state; and

(2) from persons who have been convicted of a felony;

may be used only to provide home detention services for persons who have been convicted of a felony.

SECTION 13. IC 11-12-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. A community transition program for a county must provide services that improve an offender's chances of making a successful transition from commitment to employment and participation in the community without the commission of further crimes. ~~The program may include any of the services described in IC 11-12-1-2.5.~~

SECTION 14. IC 11-12-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The department shall reimburse communities on a per diem basis for services provided to persons assigned to a community transition program under IC 11-10-11.5.

(b) The department shall set the per diem rate under this section. In setting the per diem rate for a community, the department may consider the direct costs incurred by the community to provide a community transition program. The per diem may not be less than seven dollars ($7).

(c) Funding provided under this section is in addition to any other funding received under IC 11-12-2 for community corrections programs or IC 11-13-2 for probation services.

(d) Money received by a community under this section:

(1) shall be deposited in the community transition program fund for the community; **and**

(2) may be used only to provide services for persons who have been convicted of a felony.

SECTION 15. IC 11-13-1-8, AS AMENDED BY P.L.1-2007, SECTION 102, IS AMENDED TO READ AS FOLLOWS

C o p y

[EFFECTIVE JULY 1, 2011]: Sec. 8. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established by IC 33-38-9-3.

(b) The board shall adopt rules consistent with this chapter, prescribing minimum standards concerning:

(1) educational and occupational qualifications for employment as a probation officer;

(2) compensation of probation officers;

(3) protection of probation records and disclosure of information contained in those records; ~~and~~

(4) presentence investigation reports;

(5) risk classification for probationers;

(6) supervision levels for probationers based on risk classification;

(7) a schedule of progressive probation incentives and violation sanctions, including judicial review procedures; and

(8) qualifications for probation officers to administer probation violation sanctions under IC 35-38-2-3(e).

(c) The conference shall prepare a written examination to be used in establishing lists of persons eligible for appointment as probation officers. The conference shall prescribe the qualifications for entrance to the examination and establish a minimum passing score and rules for the administration of the examination after obtaining recommendations on these matters from the probation standards and practices advisory committee. The examination must be offered at least once every other month.

(d) The conference shall, by its rules, establish an effective date for the minimum standards and written examination for probation officers.

(e) The conference shall provide probation departments with training and technical assistance for:

(1) the implementation and management of probation case classification; and

(2) the development and use of workload information.

The staff of the Indiana judicial center may include a probation case management coordinator and probation case management assistant.

(f) The conference shall, in cooperation with the department of child services and the department of education, provide probation departments with training and technical assistance relating to special education services and programs that may be available for delinquent children or children in need of services. The subjects addressed by the training and technical assistance must include the following:

(1) Eligibility standards.

C o p y

(2) Testing requirements and procedures.

(3) Procedures and requirements for placement in programs provided by school corporations or special education cooperatives under IC 20-35-5.

(4) Procedures and requirements for placement in residential special education institutions or facilities under IC 20-35-6-2 and 511 IAC 7-27-12.

(5) Development and implementation of individual education programs for eligible children in:

(A) accordance with applicable requirements of state and federal laws and rules; and

(B) coordination with:

(i) individual case plans; and

(ii) informal adjustment programs or dispositional decrees entered by courts having juvenile jurisdiction under IC 31-34 and IC 31-37.

(6) Sources of federal, state, and local funding that is or may be available to support special education programs for children for whom proceedings have been initiated under IC 31-34 and IC 31-37.

Training for probation departments may be provided jointly with training provided to child welfare caseworkers relating to the same subject matter.

(g) The conference shall, in cooperation with the division of mental health and addiction (IC 12-21) and the division of disability and rehabilitative services (IC 12-9-1), provide probation departments with training and technical assistance concerning mental illness, addictive disorders, mental retardation, and developmental disabilities.

(h) The conference shall make recommendations to courts and probation departments concerning:

(1) selection, training, distribution, and removal of probation officers;

(2) methods and procedure for the administration of probation, including investigation, supervision, workloads, **case planning, use of evidence based practices,** record keeping, and reporting; and

(3) use of citizen volunteers and public and private agencies.

(i) The conference may delegate any of the functions described in this section to the advisory committee or the Indiana judicial center.

SECTION 16. IC 11-13-1-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 8.5. (a) As used in this section,**

C o p y

"board" refers to the board of directors of the judicial conference of Indiana established by IC 33-38-9-3.

(b) The board shall adopt rules to establish standards of probation supervision provided by probation departments based on validated risk assessments of offenders.

(c) The rules adopted under this section must include the following:

(1) Guidelines that probation departments shall use to classify an offender as a:

(A) low risk;

(B) medium risk; or

(C) high risk;

offender based on a validated risk assessment of the offender. Guidelines established under this subdivision must include procedures to be used to reclassify offenders.

(2) Provisions establishing what constitutes:

(A) an active level of supervision; and

(B) an administrative level of supervision;

of an offender by a probation department.

(3) A requirement that probation departments provide the following levels of supervision for criminal offenders released on probation:

(A) An offender classified as a high risk offender shall be placed on active supervision at all times.

(B) An offender classified as a low risk or medium risk offender who is on probation for committing a misdemeanor shall be placed on:

(i) active supervision for the first nine (9) months of the offender's probationary period; and

(ii) administrative supervision after the first nine (9) months of the offender's probationary period if the offender has not been arrested during the probationary period or violated a condition of the offender's probation.

(C) An offender classified as a low risk or medium risk offender who is on probation for committing a felony shall be placed on:

(i) active supervision for the first twelve (12) months of the offender's probationary period; and

(ii) administrative supervision after the first twelve (12) months of the offender's probationary period if the offender has not been arrested during the probationary

C o p y

period or violated a condition of the offender's probation.

(d) If an order issued by the court that placed an offender on probation conflicts with the conditions of probation required by the level of supervision the offender is placed on under this section, the court order supersedes the conditions of probation.

SECTION 17. IC 11-13-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. There is established a program of state financial aid to be used for the support of court probation services **to felons and high risk offenders**. The financial aid program shall be administered by the judicial conference of Indiana. ~~Funds appropriated to the conference for purposes of this chapter shall be distributed by the conference upon approval of the state budget committee.~~

SECTION 18. IC 11-13-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Funds appropriated under this program may be made available to any court administering probation **services to felons and high risk offenders** in order to finance expenditures incurred for ~~either of~~ the following purposes:

(1) Salaries for existing or new probation officer positions.

(2) Maintenance or establishment of administrative support services to probation officers.

(3) Development and use of a progressive sanctions policy for violations of probation conditions.

(4) Development and use of evidence based supervision practices and programs to reduce the risk of further offense.

(5) Establishment of a system to improve the efficiency and coordination of offender services provided by supervision agencies within a county to ensure that an offender is supervised by only one (1) offender supervision agency.

SECTION 19. IC 11-13-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) State financial aid for support of probation services **to felons and high risk offenders** may be made only to courts meeting the minimum standards adopted by the judicial conference of Indiana. ~~and may not exceed fifty percent (50%) of the cost of the positions or services being financed.~~ Any court having probation jurisdiction may apply for financial assistance under this chapter by submitting an application to the conference for review. The application shall be accompanied by detailed plans regarding the use of the financial aid.

(b) The conference may recommend changes or modifications necessary to effect compliance with the minimum standards. The

C o p y

conference and the ~~state budget committee~~ **department** must approve all financial aid granted under this chapter. Any court receiving financial assistance under this chapter may be declared ineligible to receive that assistance if the court fails to maintain the minimum standards.

(c) Two (2) or more courts may jointly apply for financial assistance under this chapter.

SECTION 20. IC 11-13-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. At the end of each quarter of the fiscal year, courts receiving financial aid under this chapter shall submit to the judicial conference of Indiana a verified accounting of all amounts expended in providing probation services **to felons and high risk offenders**. The accounting must designate those items for which reimbursement is claimed and shall be presented together with a claim for reimbursement. If the accounting and claim are approved by the conference, ~~and the state budget agency,~~ the conference shall submit it to the ~~state~~ auditor **of state** for payment.

SECTION 21. IC 11-13-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 2.5. Probation Improvement Fund

Sec. 1. As used in this chapter, "fund" refers to the probation improvement fund established by section 2 of this chapter.

Sec. 2. (a) The probation improvement fund is established to provide grants under sections 3 and 4 of this chapter. The fund shall be administered by the department.

(b) Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Donations, gifts, and money received from any other source, including transfers from other funds or accounts.

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

(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. Interest that accrues from these investments shall be deposited in the fund.

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

(f) Money in the fund is appropriated continuously for the purposes stated in sections 3 and 4 of this chapter.

Sec. 3. (a) After the judicial conference of Indiana makes a recommendation to the department, the department may award a

C o p y

grant from the fund to a county probation department that supervises persons who have been convicted of a felony to:

(1) promote the county probation department's adoption of best practices:

(A) to:

(i) focus supervision resources on persons who pose a high likelihood of committing another offense, as determined by a validated risk assessment;

(ii) develop and use a progressive sanctions policy to guide decisions concerning how to respond to violations of conditions of supervision; and

(iii) reduce the risk posed by persons who have been convicted of a felony and are on probation through effective supervision, sanctions, and addressing any needs the persons have for substance abuse treatment, mental health services, or other services; and

(B) as approved by the department; and

(2) reduce the number of probation revocations:

(A) involving persons under the supervision of the county probation department who have been convicted of a felony; and

(B) that result in a person serving a prison sentence.

(b) To receive a grant under this section, a county probation department must submit an application to the department:

(1) on a form; and

(2) in the manner;

prescribed by the department.

(c) The department shall determine the amount of a grant awarded under this section.

Sec. 4. (a) The department:

(1) may award a grant from the fund to a county that supervises persons who have been convicted of a felony to consolidate and improve the efficiency of:

(A) probation administration and services; and

(B) community corrections programs;

in the county; and

(2) shall make the awarding of the grant contingent on the ability of the county probation department to demonstrate a minimal level of coordination with other offender supervision agencies operating in the same county, including community corrections programs, parole authorities, and other probation agencies.

C o p y

(b) To receive a grant under this section, a county must submit an application to the department:

(1) on a form; and

(2) in the manner;

prescribed by the department.

(c) The department shall determine the amount of a grant awarded under this section.

Sec. 5. The department shall adopt rules under IC 4-22-2 that are necessary to implement this chapter.

SECTION 22. IC 11-13-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 2.7. Substance Abuse Treatment Fund

Sec. 1. As used in this chapter, "fund" refers to the substance abuse treatment fund established by section 2 of this chapter.

Sec. 2. (a) The substance abuse treatment fund is established to provide grants under section 3 of this chapter. The fund shall be administered by the department.

(b) Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Donations, gifts, and money received from any other source, including transfers from other funds or accounts.

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

(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. Interest that accrues from these investments shall be deposited in the fund.

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

(f) Money in the fund is appropriated continuously for the purposes stated in section 3 of this chapter.

Sec. 3. (a) The department may award a grant from the fund to a probation department to increase substance abuse treatment access for persons on probation who have substance abuse addictions.

(b) To receive a grant under this section, a probation department must submit an application to the department:

(1) on a form; and

(2) in the manner;

prescribed by the department.

(c) The department shall determine the amount of a grant

C o p y

awarded under this section.

Sec. 4. The department shall adopt rules under IC 4-22-2 that are necessary to implement this chapter.

SECTION 23. IC 11-13-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The department:

(1) shall:

(A) supervise **parolees who were sentenced by a court in Indiana for:**

(i) murder;

(ii) a Class A felony; or

(iii) a sex offense under IC 35-42-4 or incest under IC 35-46-1-3; and

(B) assist ~~persons on parole. Its~~ **all parolees sentenced by a court in Indiana; and**

(2) shall supervise and assist out-of-state parolees accepted under an interstate compact as required by the interstate compact.

(b) The department's duties ~~in this regard~~ **under subsection (a)** include:

(1) establishing methods and procedures for parole administration, including investigation, supervision, workloads, record keeping, and reporting;

(2) providing information to and otherwise assisting the parole board in making parole decisions;

(3) assisting persons in preparing parole release plans;

(4) providing employment counseling and assistance in job and residential placement;

(5) providing family and individual counseling and treatment placement;

(6) providing financial counseling;

(7) providing vocational and educational counseling placement;

~~(8) supervising and assisting out of state parolees accepted under an interstate compact;~~

~~(9)~~ **(8)** assisting the parole board in transferring supervision of a parolee to another jurisdiction;

~~(10)~~ **(9)** notifying the parole board of any modification in the conditions of parole considered advisable;

~~(11)~~ **(10)** notifying the parole board when a violation of parole occurs; and

~~(12)~~ **(11)** cooperating with public and private agencies and with individual citizens concerned with the treatment or welfare of parolees, and assisting the parolee in obtaining services from

C o p y

those agencies and citizens.

~~(b)~~ **(c)** Courts, probation officers, and other public officials shall cooperate with the department in obtaining information relating to persons committed to the department.

~~(c)~~ **(d)** The department shall cause the name of any person released on parole to be entered into the Indiana data communications system (IDACS).

SECTION 24. IC 11-14-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. "Youthful offender" means an offender (as defined in IC 11-8-1-9) who:

(1) is less than twenty-one (21) years of age;

(2) has been committed to the department to serve a maximum sentence of not more than eight (8) years;

(3) has received a suspendible sentence under IC 35-50-2-2; ~~or IC 35-50-2-2.1;~~

(4) has been sentenced by a court having criminal jurisdiction;

(5) has never been confined in a state or federal adult correctional facility; and

(6) has not previously participated in a military or correctional boot camp program.

SECTION 25. IC 34-30-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The definitions set forth in IC 22-11-20 apply to this section.

(b) Except as provided in subsection (c), the victim or an agent of the victim of a theft ~~(IC 35-43-4-2(a))~~ **(IC 35-43-4-2)** or criminal conversion (IC 35-43-4-3) of:

(1) anhydrous ammonia (NH_3);

(2) an ammonia solution; or

(3) a container used to store or transport anhydrous ammonia or an ammonia solution;

is immune from civil liability for injury or damage resulting from the possession or use of the anhydrous ammonia, ammonia solution, or container by another person to commit a violation of IC 35-48-4.

(c) A victim or an agent described in subsection (b) is not immune from civil liability under subsection (b) if:

(1) the victim or agent committed a crime involving the anhydrous ammonia, ammonia solution, or container that is the subject of the theft or criminal conversion; or

(2) the victim's or agent's willful or intentional commission of a violation of an applicable law, rule, or regulation governing the:

(A) design;

(B) construction;

C o p y

(C) location;
(D) installation; or
(E) operation;

of equipment for storage, handling, use, or transportation of anhydrous ammonia or ammonia solution proximately caused the theft or criminal conversion.

SECTION 26. IC 34-30-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A person is immune from civil liability based on an act or omission related to the use of a firearm or ammunition for a firearm by another person if the other person directly or indirectly obtained the firearm or ammunition for a firearm through the commission of the following:

(1) Burglary (IC 35-43-2-1).
(2) Robbery (IC 35-42-5-1).
(3) Theft (IC 35-43-4-2).
(4) Receiving stolen property **(before the offense was abolished on July 1, 2011)** (IC 35-43-4-2).
(5) Criminal conversion (IC 35-43-4-3)**.**

SECTION 27. IC 35-32-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person may be tried for theft or conversion in any county in which ~~he~~ **the person** exerted unauthorized control over the property.

(b) A person may be tried for receiving stolen property **(for an act committed before the offense was abolished on July 1, 2011)** in any county in which ~~he~~ **the person** receives, retains, or disposes of the property.

SECTION 28. IC 35-38-1-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 31. (a) This section does not apply to a person convicted of a crime under IC 35-42-4, except as otherwise authorized by IC 33-23-16.**

(b) A sentencing court may order that a person convicted of a Class A felony participate in a problem solving court program authorized under IC 33-23-16, a probation department, or a community corrections program.

(c) If a court imposes a sentence on a person convicted of a Class B, Class C, or Class D felony that involves a commitment to the department of correction, the court shall suspend six (6) months to three (3) years of the sentence and require the person to serve the suspended period:

(1) on probation;
(2) in a community corrections program under IC 35-38-2.6;

C o p y

or

(3) in a problem solving court authorized under IC 33-23-16.

(d) If a person violates a condition of probation, a community corrections program, or a problem solving court authorized under IC 33-23-16, the court may order the person to serve the remainder of the sentence in the department of correction.

(e) If a person is required to participate in a community transition program under IC 11-10-11.5, the participation in a community transition program must take place before the person serves the suspended period on probation, a community corrections program, or a problem solving court program under this section.

SECTION 29. IC 35-38-2-2.3, AS AMENDED BY P.L.111-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following, **subject to the supervision guidelines for the person's risk classification:**

(1) Work faithfully at suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family responsibilities.

(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.

(10) Permit the person's probation officer to visit the person at

C o p y

reasonable times at the person's home or elsewhere.

(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.

(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.

(13) Perform uncompensated work that benefits the community.

(14) Satisfy other conditions reasonably related to the person's rehabilitation.

(15) Undergo home detention under IC 35-38-2.5.

(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(B) the person had been convicted of an offense relating to a controlled substance and the offense involved:

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(17) Refrain from any direct or indirect contact with an individual and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments

C o p y

under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(22) Participate in a reentry court program.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) If the court orders conditions of probation that do not follow the supervision guidelines for the person's risk classification, the court shall make written findings showing that it is in the best interest of the rehabilitation of the person and the safety of the community to make the order.

C o p y

~~(e)~~ **(f)** Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

~~(f)~~ **(g)** When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

~~(g)~~ **(h)** As a condition of probation, a court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

SECTION 30. IC 35-38-2-3, AS AMENDED BY P.L.106-2010, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The court may revoke a person's probation if:

(1) the person has violated a condition of probation during the probationary period; and

(2) the petition to revoke probation is filed during the probationary period or before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) When a petition is filed charging a violation of a condition of probation, the court may:

(1) order a summons to be issued to the person to appear; or

(2) order a warrant for the person's arrest if there is a risk of the person's fleeing the jurisdiction or causing harm to others.

(c) The issuance of a summons or warrant tolls the period of probation until the final determination of the charge.

(d) **Except as provided in subsection (e),** the court shall conduct a hearing concerning the alleged violation. The court may admit the person to bail pending the hearing. **A person who is not admitted to bail pending the hearing may not be held in jail for more than fifteen (15) days without a hearing on the violation.**

(e) A person may admit to the violation and waive the right to

C o p y

a probation violation hearing after being offered the opportunity to consult with an attorney. If the person admits to the violation and requests to waive the probation violation hearing, the probation officer shall advise the person that by waiving the right to a probation violation hearing the person forfeits the rights provided in subsection (f). The sanction administered shall follow the schedule of progressive probation violation sanctions adopted by the judicial conference of Indiana under IC 11-13-1-8.

~~(e)~~ **(f) Except as provided in subsection (e),** the state must prove the violation by a preponderance of the evidence. The evidence shall be presented in open court. The person is entitled to confrontation, cross-examination, and representation by counsel.

~~(f)~~ **(g)** Probation may not be revoked for failure to comply with conditions of a sentence that imposes financial obligations on the person unless the person recklessly, knowingly, or intentionally fails to pay.

~~(g)~~ **(h)** If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may impose one (1) or more of the following sanctions:

(1) Continue the person on probation, with or without modifying or enlarging the conditions.

(2) Extend the person's probationary period for not more than one (1) year beyond the original probationary period.

(3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

~~(h)~~ **(i)** If the court finds that the person has violated a condition of home detention at any time before termination of the period, and the petition to revoke probation is filed within the probationary period, the court shall:

(1) order one (1) or more sanctions as set forth in subsection ~~(g);~~ **(h);** and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

~~(i)~~ **(j)** If the court finds that the person has violated a condition during any time before the termination of the period, and the petition is filed under subsection (a) after the probationary period has expired, the court may:

(1) reinstate the person's probationary period, with or without enlarging the conditions, if the sum of the length of the original probationary period and the reinstated probationary period does not exceed the length of the maximum sentence allowable for the

C o p y

offense that is the basis of the probation; or

(2) order execution of all or part of the sentence that was suspended at the time of the initial sentencing.

~~(j)~~ **(k)** If the court finds that the person has violated a condition of home detention during any time before termination of the period, and the petition is filed under subsection (a) after the probation period has expired, the court shall:

(1) order a sanction as set forth in subsection ~~(i),~~ **(j);** and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

~~(k)~~ **(l)** A judgment revoking probation is a final appealable order.

~~(l)~~ **(m)** Failure to pay fines or costs (including fees) required as a condition of probation may not be the sole basis for commitment to the department of correction.

~~(m)~~ **(n)** Failure to pay fees or costs assessed against a person under IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for revocation of probation.

SECTION 31. IC 35-38-2.6-1, AS AMENDED BY P.L.151-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the sentencing of a person convicted of:

(1) a felony whenever any part of the sentence may not be suspended under IC 35-50-2-2; ~~or IC 35-50-2-2.1,~~

(2) a misdemeanor whenever any part of the sentence may not be suspended; or

(3) an offense described in ~~IC 35-50-2-2(b)(4)(R)~~ **IC 35-50-2-2(b)(3)(R)** (operating a vehicle while intoxicated with at least two (2) prior unrelated convictions), if the person:

(A) is required to serve the nonsuspendible part of the sentence in a community corrections:

(i) work release program; or

(ii) program that uses electronic monitoring as a part of the person's supervision; and

(B) participates in a court approved substance abuse program.

(b) This chapter does not apply to persons convicted of any of the following:

(1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.

(2) Except as provided in subsection (a)(3), any of the felonies listed in ~~IC 35-50-2-2(b)(4).~~ **IC 35-50-2-2(b)(3).**

(3) An offense under IC 9-30-5-4.

(4) An offense under IC 9-30-5-5.

SECTION 32. IC 35-38-3-5 IS AMENDED TO READ AS

C o p y

FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The department, after diagnosis and classification, shall:

(1) determine the degree of security (maximum, medium, or minimum) to which a convicted person will be assigned;

~~(2) for each offender convicted of a Class D felony whose sentence for the Class D felony is nonsuspendible under IC 35-50-2-2(b)(3) due to a prior unrelated Class C or Class D felony, determine whether the offender is an appropriate candidate for home detention under IC 35-38-2.5;~~

~~(3) for each offender convicted of a Class D felony whose sentence for the Class D felony is nonsuspendible under:~~

~~(A) IC 35-50-2-2.1(a)(1)(B);~~

~~(B) IC 35-50-2-2.1(a)(1)(C); or~~

~~(C) IC 35-50-2-2.1(a)(2);~~

~~determine whether the offender is an appropriate candidate for home detention under IC 35-38-2.5;~~

~~(4)~~ **(2)** for each offender:

(A) committed to the department because the offender has been convicted for the first time of a Class C or a Class D felony; and

(B) whose sentence may be suspended;

determine whether the offender is an appropriate candidate for home detention under IC 35-38-2.5;

~~(5)~~ **(3)** notify the trial court and prosecuting attorney if the degree of security assigned differs from the court's recommendations; and

~~(6)~~ **(4)** petition the sentencing court under IC 35-38-1-21 for review of the sentence of an offender who is not a habitual offender sentenced under IC 35-50-2-8 or IC 35-50-2-10 and who the department has determined under subdivision (2) ~~or subdivision (3),~~ to be an appropriate candidate for home detention.

(b) The department may change the degree of security to which the person is assigned. However, if the person is changed to a lesser degree **of** security during the first two (2) years of the commitment, the department shall notify the trial court and the prosecuting attorney not less than thirty (30) days before the effective date of the changed security assignment.

SECTION 33. IC 35-41-1-8.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 8.3. "Defraud" means to deprive a person of any money, property, interest, benefit, or right by**

C o p y

means of false or deceptive pretenses, representations, or promises.

SECTION 34. IC 35-43-4-2, AS AMENDED BY P.L.158-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. ~~(a)~~ A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a ~~Class D felony.~~ **Class A misdemeanor.** However, the offense is a **Class D felony if the fair market value of the property is at least seven hundred fifty dollars ($750) or if the person has a prior unrelated conviction for theft, and a** Class C felony if:

(1) the fair market value of the property is at least ~~one hundred~~ **fifty** thousand dollars ~~($100,000);~~ **($50,000);** or

(2) the property that is the subject of the theft is a valuable metal (as defined in IC 25-37.5-1-1) and:

(A) relates to transportation safety;

(B) relates to public safety; or

(C) is taken from a:

(i) hospital or other health care facility;

(ii) telecommunications provider;

(iii) public utility (as defined in IC 32-24-1-5.9(a)); or

(iv) key facility;

and the absence of the property creates a substantial risk of bodily injury to a person.

~~(b) A person who knowingly or intentionally receives, retains, or disposes of the property of another person that has been the subject of theft commits receiving stolen property, a Class D felony. However, the offense is a Class C felony if:~~

~~(1) the fair market value of the property is at least one hundred thousand dollars ($100,000); or~~

~~(2) the property that is the subject of the theft is a valuable metal (as defined in IC 25-37.5-1-1) and:~~

~~(A) relates to transportation safety;~~

~~(B) relates to public safety; or~~

~~(C) is taken from a:~~

~~(i) hospital or other health care facility;~~

~~(ii) telecommunications provider;~~

~~(iii) public utility (as defined in IC 32-24-1-5.9(a)); or~~

~~(iv) key facility;~~

~~and the absence of the property creates a substantial risk of bodily injury to a person.~~

SECTION 35. IC 35-43-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) A conviction for

C o p y

an offense under section 2 of this chapter or section 3 of this chapter that involves exerting unauthorized control over gasoline or motor vehicle fuel:

(1) by operation of a motor vehicle to leave the premises of an establishment at which gasoline or motor vehicle fuel is offered for sale after the gasoline or motor vehicle fuel has been dispensed into the fuel tank of the motor vehicle; and

(2) without payment or authorization of payment by a credit card, debit card, charge card, or similar method of payment;

shall result in the suspension of the driving privileges of the person.

(b) The court imposing **a** sentence for a violation under subsection (a) shall issue an order to the bureau of motor vehicles:

(1) stating that the person has been convicted of an offense under section 2 of this chapter or section 3 of this chapter involving the unauthorized taking of gasoline or motor vehicle fuel; and

(2) ordering the suspension of the person's driving privileges under IC 9-25-6-21.

The suspension of a person's driving privileges under this section is in addition to other penalties prescribed by ~~IC 35-50-3-2 for a Class A misdemeanor or by IC 35-50-2-7 for a Class D felony.~~ **IC 35-50.**

SECTION 36. IC 35-43-5-2, AS AMENDED BY P.L.106-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person who knowingly or intentionally:

(1) makes or utters a written instrument in such a manner that it purports to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority; or

(2) possesses more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority;

commits counterfeiting, a Class D felony.

(b) A person who, with intent to defraud, makes, utters, or possesses a written instrument in such a manner that it purports to have been made:

(1) by another person;

(2) at another time;

C o p y

(3) with different provisions; or

(4) by authority of one who did not give authority;

commits forgery, a ~~Class C~~ **Class D** felony.

(c) This subsection applies to a person who applies for a driver's license (as defined in IC 9-13-2-48) **or a state identification card (as issued under IC 9-24-16).** A person who:

(1) knowingly or intentionally uses a false or fictitious name or gives a false or fictitious address in an application for a driver's license **or a state identification card** or for a renewal or a duplicate of a driver's license **or a state identification card;** or

(2) knowingly or intentionally makes a false statement or conceals a material fact or otherwise commits fraud in an application for a driver's license **or a state identification card;**

commits application fraud, a Class D felony.

~~(d) This subsection applies to a person who applies for a state identification card (as issued under IC 9-24-16). A person who:~~

~~(1) knowingly or intentionally uses false information in an application for an identification card or for a renewal or duplicate of an identification card; or~~

~~(2) knowingly or intentionally makes a false statement or otherwise commits fraud in an application for an identification card;~~

~~commits application fraud, a Class D felony.~~

SECTION 37. IC 35-43-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) A person who:

(1) being an officer, manager, or other person participating in the direction of a credit institution, knowingly or intentionally receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent;

(2) knowingly or intentionally:

(A) makes a false or misleading written statement; **or**

(B) misrepresents:

(i) the identity of the person or another person;

(ii) a person as being a physician licensed under IC 25-22.5; or

(iii) the identity or quality of property;

with intent to obtain property, employment, or an educational opportunity;

(3) misapplies entrusted property, property of a governmental entity, or property of a credit institution in a manner that the person knows is unlawful or that the person knows involves substantial risk of loss or detriment to either the owner of the

C o p y

property or to a person for whose benefit the property was entrusted;

(4) knowingly or intentionally, in the regular course of business, either:

(A) uses or possesses for use a false weight or measure or other device for falsely determining or recording the quality or quantity of any commodity; or

(B) sells, offers, or displays for sale or delivers less than the represented quality or quantity of any commodity;

(5) with intent to defraud another person furnishing electricity, gas, water, telecommunication, or any other utility service **or cable television service,** avoids a lawful charge for that service by scheme or device or by tampering with facilities or equipment of the person furnishing the service;

~~(6) with intent to defraud, misrepresents the identity of the person or another person or the identity or quality of property;~~

~~(7)~~ **(6)** with intent to defraud an owner of a coin machine, deposits a slug in that machine;

~~(8)~~ **(7)** with intent to enable the person or another person to deposit a slug in a coin machine, makes, possesses, or disposes of a slug; **or**

~~(9)~~ **(8)** disseminates to the public an advertisement that the person knows is false, misleading, or deceptive, with intent to promote the purchase or sale of property or the acceptance of employment;

~~(10) with intent to defraud, misrepresents a person as being a physician licensed under IC 25-22.5; or~~

~~(11) knowingly and intentionally defrauds another person furnishing cable TV service by avoiding paying compensation for that service by any scheme or device or by tampering with facilities or equipment of the person furnishing the service;~~

commits deception, a Class A misdemeanor.

(b) In determining whether an advertisement is false, misleading, or deceptive under subsection ~~(a)(9),~~ **(a)(8),** there shall be considered, among other things, not only representations contained or suggested in the advertisement, by whatever means, including device or sound, but also the extent to which the advertisement fails to reveal material facts in the light of the representations.

SECTION 38. IC 35-43-5-3.5, AS AMENDED BY P.L.137-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.5. (a) Except as provided in subsection (c), a person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person, including the

C o p y

identifying information of a person who is deceased:

(1) without the other person's consent; and

(2) with intent to:

(A) harm or defraud another person;

(B) assume another person's identity; or

(C) profess to be another person;

commits identity deception, a Class D felony.

(b) However, the offense defined in subsection (a) is a Class C felony if:

(1) a person obtains, possesses, transfers, or uses the identifying information of more than one hundred (100) persons;

(2) the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars ($50,000); ~~or~~

(3) a person obtains, possesses, transfers, or uses the identifying information of a person who is less than eighteen (18) years of age and is:

(A) the person's son or daughter;

(B) a dependent of the person;

(C) a ward of the person; or

(D) an individual for whom the person is a guardian; **or**

(4) a person obtains, possesses, transfers, or uses the identifying information of another person with intent to:

(A) commit terrorism; or

(B) obtain or transport a weapon of mass destruction.

(c) The conduct prohibited in subsections (a) and (b) does not apply to:

(1) a person less than twenty-one (21) years of age who uses the identifying information of another person to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5);

(2) a minor (as defined in IC 35-49-1-4) who uses the identifying information of another person to acquire:

(A) a cigarette or tobacco product (as defined in IC 6-7-2-5);

(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(C) admittance to a performance (live or film) that prohibits the attendance of the minor based on age; or

(D) an item that is prohibited by law for use or consumption by a minor; or

(3) any person who uses the identifying information for a lawful purpose.

(d) It is not a defense in a prosecution under subsection (a) or (b) that no person was harmed or defrauded.

C o p y

SECTION 39. IC 35-43-5-3.8, AS ADDED BY P.L.137-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.8. (a) A person who knowingly or intentionally obtains, possesses, transfers, or uses the synthetic identifying information:

(1) with intent to harm or defraud another person;

(2) with intent to assume another person's identity; or

(3) with intent to profess to be another person;

commits synthetic identity deception, a Class D felony.

(b) The offense under subsection (a) is a Class C felony if:

(1) a person obtains, possesses, transfers, or uses the synthetic identifying information of more than one hundred (100) persons; ~~or~~

(2) the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars ($50,000); **or**

(3) a person obtains, possesses, transfers, or uses the synthetic identifying information of another person with intent to:

(A) commit terrorism; or

(B) obtain or transport a weapon of mass destruction.

(c) The conduct prohibited in subsections (a) and (b) does not apply to:

(1) a person less than twenty-one (21) years of age who uses the synthetic identifying information of another person to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5); or

(2) a minor (as defined in IC 35-49-1-4) who uses the synthetic identifying information of another person to acquire:

(A) a cigarette or tobacco product (as defined in IC 6-7-2-5);

(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(C) admittance to a performance (live or on film) that prohibits the attendance of the minor based on age; or

(D) an item that is prohibited by law for use or consumption by a minor.

(d) It is not a defense in a prosecution under subsection (a) or (b) that no person was harmed or defrauded.

SECTION 40. IC 35-43-5-4.3, AS AMENDED BY P.L.137-2009, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4.3. (a) As used in this section, "card skimming device" means a device that is designed to read information encoded on a credit card. The term includes a device designed to read, record, or transmit information encoded on a credit card:

(1) directly from a credit card; or

C o p y

(2) from another device that reads information directly from a credit card.

(b) A person who possesses a card skimming device with intent to commit:

(1) identity deception (IC 35-43-5-3.5);

(2) synthetic identity deception (IC 35-43-5-3.8); **or**

(3) fraud (IC 35-43-5-4); ~~or~~

~~(4) terroristic deception (IC 35-43-5-3.6);~~

commits unlawful possession of a card skimming device, ~~Unlawful possession of a card skimming device under subdivision (1), (2), or (3) is~~ a Class D felony. **However,** unlawful possession of a card skimming device ~~under subdivision (4)~~ **with intent to commit terrorism or obtain or transport a weapon of mass destruction** is a Class C felony.

SECTION 41. IC 35-43-5-4.5, AS ADDED BY P.L.181-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4.5. (a) A person who, knowingly and with intent to defraud:

(1) makes, utters, presents, or causes to be presented to an insurer or an insurance claimant, a claim statement that contains false, incomplete, or misleading information concerning the claim;

(2) presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, an oral, a written, or an electronic statement that the person knows to contain materially false information as part of, in support of, or concerning a fact that is material to:

(A) the rating of an insurance policy;

(B) a claim for payment or benefit under an insurance policy;

(C) premiums paid on an insurance policy;

(D) payments made in accordance with the terms of an insurance policy;

(E) an application for a certificate of authority;

(F) the financial condition of an insurer; or

(G) the acquisition of an insurer;

or conceals any information concerning a subject set forth in clauses (A) through (G);

(3) solicits or accepts new or renewal insurance risks by or for an insolvent insurer or other entity regulated under IC 27;

(4) removes:

(A) the assets;

(B) the record of assets, transactions, and affairs; or

(C) a material part of the assets or the record of assets,

C o p y

transactions, and affairs;

of an insurer or another entity regulated under IC 27, from the home office, other place of business, or place of safekeeping of the insurer or other regulated entity, or conceals or attempts to conceal from the department of insurance assets or records referred to in clauses (A) through (B); or

(5) diverts funds of an insurer or another person in connection with:

(A) the transaction of insurance or reinsurance;

(B) the conduct of business activities by an insurer or another entity regulated under IC 27; or

(C) the formation, acquisition, or dissolution of an insurer or another entity regulated under IC 27;

commits insurance fraud. Except as provided in subsection (b), insurance fraud is a Class D felony.

(b) An offense described in subsection (a) is a Class C felony if:

(1) the person who commits the offense has a prior unrelated conviction under this section; or

(2) the:

(A) value of property, services, or other benefits obtained or attempted to be obtained by the person as a result of the offense; or

(B) economic loss suffered by another person as a result of the offense;

is at least ~~two thousand five hundred dollars ($2,500).~~ **fifty thousand dollars ($50,000).**

(c) A person who knowingly and with intent to defraud makes a material misstatement in support of an application for the issuance of an insurance policy commits insurance application fraud, a Class A misdemeanor.

SECTION 42. IC 35-43-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) A person who knowingly or intentionally issues or delivers a check, a draft, or an order on a credit institution for the payment of or to acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. However, the offense is a Class D felony if the amount of the check, draft, or order is at least ~~two thousand five hundred~~ **seven hundred fifty** dollars ~~($2,500) and the property acquired by the person was a motor vehicle.~~ **($750).**

(b) An unpaid and dishonored check, a draft, or an order that has the drawee's refusal to pay and reason printed, stamped, or written on or

C o p y

attached to it constitutes prima facie evidence:

(1) that due presentment of it was made to the drawee for payment and dishonor thereof; and

(2) that it properly was dishonored for the reason stated.

(c) The fact that a person issued or delivered a check, a draft, or an order, payment of which was refused by the drawee, constitutes prima facie evidence that the person knew that it would not be paid or honored. In addition, evidence that a person had insufficient funds in or no account with a drawee credit institution constitutes prima facie evidence that the person knew that the check, draft, or order would not be paid or honored.

(d) The following two (2) items constitute prima facie evidence of the identity of the maker of a check, draft, or order if at the time of its acceptance they are obtained and recorded, either on the check, draft, or order itself or on file, by the payee:

(1) Name and residence, business, or mailing address of the maker.

(2) Motor vehicle operator's license number, Social Security number, home telephone number, or place of employment of the maker.

(e) It is a defense under subsection (a) if a person who:

(1) has an account with a credit institution but does not have sufficient funds in that account; and

(2) issues or delivers a check, a draft, or an order for payment on that credit institution;

pays the payee or holder the amount due, together with protest fees and any service fee or charge, which may not exceed the greater of twenty-seven dollars and fifty cents ($27.50) or five percent (5%) (but not more than two hundred fifty dollars ($250)) of the amount due, that may be charged by the payee or holder, within ten (10) days after the date of mailing by the payee or holder of notice to the person that the check, draft, or order has not been paid by the credit institution. Notice sent in the manner set forth in IC 26-2-7-3 constitutes notice to the person that the check, draft, or order has not been paid by the credit institution. The payee or holder of a check, draft, or order that has been dishonored incurs no civil or criminal liability for sending notice under this subsection.

(f) A person does not commit a crime under subsection (a) when:

(1) the payee or holder knows that the person has insufficient funds to ensure payment or that the check, draft, or order is postdated; or

(2) insufficiency of funds or credit results from an adjustment to

C o p y

the person's account by the credit institution without notice to the person.

SECTION 43. IC 35-43-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) A person who knowingly or intentionally:

(1) obtains public relief or assistance by means of impersonation, fictitious transfer, false or misleading oral or written statement, ~~fradulent~~ **fraudulent** conveyance, or other fraudulent means;

(2) acquires, possesses, uses, transfers, sells, trades, issues, or disposes of:

(A) an authorization document to obtain public relief or assistance; or

(B) public relief or assistance;

except as authorized by law;

(3) uses, transfers, acquires, issues, or possesses a blank or incomplete authorization document to participate in public relief or assistance programs, except as authorized by law;

(4) counterfeits or alters an authorization document to receive public relief or assistance, or knowingly uses, transfers, acquires, or possesses a counterfeit or altered authorization document to receive public relief or assistance; or

(5) conceals information for the purpose of receiving public relief or assistance to which ~~he~~ **the person** is not entitled;

commits welfare fraud, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense is:

(1) a Class D felony if

~~(A)~~ the amount of public relief or assistance involved is more than ~~two hundred fifty dollars ($250)~~ **seven hundred fifty dollars ($750)** but less than ~~two thousand five hundred dollars ($2,500); or~~

~~(B) the amount involved is not more than two hundred fifty dollars ($250) and the person has a prior conviction of welfare fraud under this section;~~ **fifty thousand dollars ($50,000);** and

(2) a Class C felony if the amount of public relief or assistance involved is ~~two thousand five hundred dollars ($2,500)~~ **fifty thousand dollars ($50,000)** or more. ~~regardless of whether the person has a prior conviction of welfare fraud under this section.~~

(c) Whenever a person is convicted of welfare fraud under this section, the clerk of the sentencing court shall certify to the appropriate state agency and the appropriate agency of the county of the defendant's

C o p y

residence:

(1) ~~his~~ **the person's** conviction; and

(2) whether the defendant is placed on probation and restitution is ordered under IC 35-38-2.

SECTION 44. IC 35-43-5-7.1, AS AMENDED BY P.L.1-2006, SECTION 531, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7.1. (a) Except as provided in subsection (b), a person who knowingly or intentionally:

(1) files a Medicaid claim, including an electronic claim, in violation of IC 12-15;

(2) obtains payment from the Medicaid program under IC 12-15 by means of a false or misleading oral or written statement or other fraudulent means;

(3) acquires a provider number under the Medicaid program except as authorized by law;

(4) alters with the intent to defraud or falsifies documents or records of a provider (as defined in 42 CFR 1000.30) that are required to be kept under the Medicaid program; or

(5) conceals information for the purpose of applying for or receiving unauthorized payments from the Medicaid program;

commits Medicaid fraud, a Class D felony.

(b) The offense described in subsection (a) is a Class C felony if the fair market value of the offense is at least ~~one hundred thousand dollars ($100,000).~~ **fifty thousand dollars ($50,000).**

SECTION 45. IC 35-43-5-7.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7.2. (a) Except as provided in subsection (b), a person who knowingly or intentionally:

(1) files a children's health insurance program claim, including an electronic claim, in violation of IC 12-17.6;

(2) obtains payment from the children's health insurance program under IC 12-17.6 by means of a false or misleading oral or written statement or other fraudulent means;

(3) acquires a provider number under the children's health insurance program except as authorized by law;

(4) alters with intent to defraud or falsifies documents or records of a provider (as defined in 42 CFR 1002.301) that are required to be kept under the children's health insurance program; or

(5) conceals information for the purpose of applying for or receiving unauthorized payments from the children's health insurance program;

commits insurance fraud, a Class D felony.

(b) The offense described in subsection (a) is a Class C felony if the

C o p y

fair market value of the offense is at least ~~one hundred thousand dollars ($100,000).~~ **fifty thousand dollars ($50,000).**

SECTION 46. IC 35-43-5-8, AS AMENDED BY P.L.57-2006, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) A person who knowingly executes, or attempts to execute, a scheme or artifice:

(1) to defraud a state or federally chartered or federally insured financial institution; or

(2) to obtain any of the money, funds, credits, assets, securities, or other property owned by or under the custody or control of a state or federally chartered or federally insured financial institution by means of false or fraudulent pretenses, representations, or promises;

commits **bank fraud,** a ~~Class C~~ **Class D** felony. **However, the offense is a Class C felony if the total amount of property obtained is at least fifty thousand dollars ($50,000).**

(b) As used in this section, the term "state or federally chartered or federally insured financial institution" means:

(1) an institution with accounts insured by the Federal Deposit Insurance Corporation;

(2) a credit union with accounts insured by the National Credit Union Administration Board;

(3) a federal home loan bank or a member, as defined in Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), as in effect on December 31, 1990, of the Federal Home Loan Bank System; or

(4) a bank, banking association, land bank, intermediate credit bank, bank for cooperatives, production credit association, land bank association, mortgage association, trust company, savings bank, or other banking or financial institution organized or operating under the laws of the United States or of the state.

The term does not include a lender licensed under IC 24-4.5.

SECTION 47. IC 35-43-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) As used in this section, "financial institution" refers to a state or federally chartered bank, savings bank, savings association, or credit union.

(b) A person who knowingly or intentionally obtains property, through a scheme or artifice, with intent to defraud:

(1) by issuing or delivering a check, a draft, an electronic debit, or an order on a financial institution:

(A) knowing that the check, draft, order, or electronic debit will not be paid or honored by the financial institution upon

C o p y

presentment in the usual course of business;
(B) using false or altered evidence of identity or residence;
(C) using a false or an altered account number; or
(D) using a false or an altered check, draft, order, or electronic instrument;
(2) by:
(A) depositing the minimum initial deposit required to open an account; and
(B) either making no additional deposits or making insufficient additional deposits to insure debits to the account; or
(3) by opening accounts with more than one (1) financial institution in either a consecutive or concurrent time period;

commits check fraud, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction under this section or the aggregate amount of property obtained is at least ~~twenty-five thousand dollars ($25,000).~~ **fifty thousand dollars ($50,000).**

SECTION 48. IC 35-48-4-1, AS AMENDED BY P.L.151-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A person who:

(1) knowingly or intentionally:
~~(A) manufactures;~~
~~(B) finances the manufacture of;~~
~~(C)~~ **(A)** delivers; or
~~(D)~~ **(B)** finances the delivery of;
cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II; or
(2) possesses, with intent to:
~~(A) manufacture;~~
~~(B) finance the manufacture of;~~
~~(C)~~ **(A)** deliver; or
~~(D)~~ **(B)** finance the delivery of;
cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II;

commits dealing in cocaine or a narcotic drug, a ~~Class B~~ **Class C** felony, except as provided in subsection (b) **or (c).**

(b) The offense is a ~~Class A~~ **Class B** felony if:
(1) the **cumulative** amount of the drug involved **in any fourteen (14) day period** ~~weighs three (3)~~ **is ten (10)** grams or more, **but less than twenty-eight (28) grams;**
(2) the person manufactured the drug;
~~(2)~~ **(3)** the person:

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(A) delivered; or
(B) financed the delivery of;
the drug to a person under eighteen (18) years of age at least three (3) years junior to the person; or
~~(3)~~ **(4)** the person ~~manufactured~~, delivered or financed the delivery of the drug:
(A) on a school bus; ~~or~~
(B) in, on, or within ~~one thousand (1,000)~~ **two hundred (200)** feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center; **or**
(C) the person delivered the drug while possessing a firearm (as defined in IC 35-47-1-5).
(c) The offense is a Class A felony if:
(1) the cumulative amount of the drug involved in any fourteen (14) day period is twenty-eight (28) grams or more;
(2) the:
(A) cumulative amount of the drug involved in any fourteen (14) day period is ten (10) grams or more; and
(B) person:
(i) manufactured the drug; or
(ii) delivered or financed the delivery of the drug on a school bus, or in, on, or within two hundred (200) feet of school property, a public park, a family housing complex, or a youth program center, or the person delivered the drug while possessing a firearm (as defined in IC 35-47-1-5); or
(3) the person manufactured the drug on a school bus, or in, on, or within two hundred (200) feet of school property, a public park, a family housing complex, or a youth program center.

SECTION 49. IC 35-48-4-1.1, AS ADDED BY P.L.151-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.1. (a) A person who:
(1) knowingly or intentionally:
~~(A) manufactures;~~
~~(B) finances the manufacture of;~~
~~(C)~~ **(A)** delivers; or
~~(D)~~ **(B)** finances the delivery of;
methamphetamine, pure or adulterated, or

C o p y

(2) possesses, with intent to:
~~(A) manufacture;~~
~~(B) finance the manufacture of;~~
~~(C)~~ **(A)** deliver; or
~~(D)~~ **(B)** finance the delivery of;
methamphetamine, pure or adulterated;
commits dealing in methamphetamine, a ~~Class B~~ **Class C** felony, except as provided in subsection (b) **or (c).**

(b) The offense is a ~~Class A~~ **Class B** felony if:
(1) the **cumulative** amount of the drug involved **in any fourteen (14) day period** ~~weighs three (3)~~ **is ten (10)** grams or more, **but less than twenty-eight (28) grams;**
(2) the person manufactured the drug;
~~(2)~~ **(3)** the person:
(A) delivered; or
(B) financed the delivery of;
the drug to a person under eighteen (18) years of age at least three (3) years junior to the person; or
~~(3)~~ **(4)** the person ~~manufactured~~, delivered or financed the delivery of the drug:
(A) on a school bus; ~~or~~
(B) in, on, or within ~~one thousand (1,000)~~ **two hundred (200)** feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center; **or**
(C) the person delivered the drug while possessing a firearm (as defined in IC 35-47-1-5).

(c) The offense is a Class A felony if:
(1) the cumulative amount of the drug involved in any fourteen (14) day period is twenty-eight (28) grams or more;
(2) the:
(A) cumulative amount of the drug involved in any fourteen (14) day period is ten (10) grams or more; and
(B) person:
(i) manufactured the drug; or
(ii) delivered or financed the delivery of the drug on a school bus, or in, on, or within two hundred (200) feet of school property, a public park, a family housing complex, or a youth program center, or the person delivered the drug while possessing a firearm (as defined

C o p y

in IC 35-47-1-5); or

(3) the person manufactured the drug on a school bus, or in, on, or within one thousand (1,000) feet of school property, a public park, a family housing complex, or a youth program center.

SECTION 50. IC 35-48-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person who:

(1) knowingly or intentionally:

~~(A) manufactures;~~

~~(B) finances the manufacture of;~~

~~(C)~~ **(A)** delivers; or

~~(D)~~ **(B)** finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, or hashish; or

(2) possesses, with intent to:

~~(A) manufacture;~~

~~(B) finance the manufacture of;~~

~~(C)~~ **(A)** deliver; or

~~(D)~~ **(B)** finance the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, or hashish;

commits dealing in a schedule I, II, or III controlled substance, a ~~Class B~~ **Class C** felony, except as provided in subsection (b) **or (c).**

(b) The offense is a ~~Class A~~ **Class B** felony if:

(1) the cumulative amount of the substance involved in any fourteen (14) day period is:

(A) if the substance is not in pill form, ten (10) grams or more, but less than twenty-eight (28) grams; or

(B) if the substance is in pill form, twenty-four (24) pills or more, but less than seventy-two (72) pills;

(2) the person manufactured the substance;

~~(1)~~ **(3)** the person:

(A) delivered; or

(B) financed the delivery of;

the substance to a person under eighteen (18) years of age at least three (3) years junior to the person; or

~~(2)~~ **(4)** the person delivered or financed the delivery of the substance:

(A) on a school bus; or

(B) in, on, or within ~~one thousand (1,000)~~ **two hundred (200)** feet of:

(i) school property;

C o p y

(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center; **or**

(5) the person delivered the substance while possessing a firearm (as defined in IC 35-47-1-5).

(c) The offense is a Class A felony if:

(1) the cumulative amount of the substance involved in any fourteen (14) day period is:

(A) if the substance is not in pill form, twenty-eight (28) grams or more; or

(B) if the substance is in pill form, seventy-two (72) pills or more;

(2) the:

(A) cumulative amount of the substance involved in any fourteen (14) day period is:

(i) if the substance is not in pill form, ten (10) grams or more; or

(ii) if the substance is in pill form, twenty-four (24) pills or more; and

(B) person:

(i) manufactured the substance; or

(ii) delivered or financed the delivery of the substance on a school bus, or in, on, or within two hundred (200) feet of school property, a public park, a family housing complex, or a youth program center, or the person delivered the substance while possessing a firearm (as defined in IC 35-47-1-5); or

(3) the person manufactured the substance on a school bus, or in, on, or within two hundred (200) feet of school property, a public park, a family housing complex, or a youth program center.

SECTION 51. IC 35-48-4-6, AS AMENDED BY P.L.151-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses cocaine (pure or adulterated) or a narcotic drug (pure or adulterated) classified in schedule I or II commits possession of cocaine or a narcotic drug, a Class D felony, except as provided in subsection (b) **or (c).**

(b) The offense is

~~(1)~~ a Class C felony if:

~~(A)~~ **(1)** the amount of the drug involved (pure or adulterated)

C o p y

weighs ~~three (3)~~ **ten (10)** grams or more, **but less than twenty-eight (28) grams;** or

(2) the person possesses the drug:

(A) on a school bus;

(B) in, on, or within two hundred (200) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center; or

~~(B)~~ **(C) while** the person was also in possession of a firearm (as defined in IC 35-47-1-5).

~~(2)~~ **(c) The offense is** a Class B felony:

(1) if: ~~the person in possession of the cocaine or narcotic drug possesses less than three (3) grams of pure or adulterated cocaine or a narcotic drug:~~

~~(A) on a school bus; or~~

~~(B) in, on, 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; and~~

~~(3) a Class A felony if the person possesses the cocaine or narcotic drug in an amount (pure or adulterated) weighing at least three (3) grams:~~

~~(A) on a school bus; or~~

~~(B) in, on, 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:~~

(A) the amount of the drug involved (pure or adulterated) weighs ten (10) grams or more, but less than twenty-eight (28) grams; and

(B) the person possesses the drug:

(i) on a school bus;

(ii) in, on, or within two hundred (200) feet of school property, a public park, a family housing complex, or a youth program center; or

(iii) while the person was also in possession of a firearm (as defined in IC 35-47-1-5); or

(2) if the amount of the drug involved weighs twenty-eight (28) grams or more.

C o p y

SECTION 52. IC 35-48-4-6.1, AS ADDED BY P.L.151-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6.1. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Class D felony, except as provided in subsection (b) **or (c).**

(b) The offense is

~~(1)~~ a Class C felony if:

~~(A)~~ **(1)** the amount of the drug involved (pure or adulterated) weighs ~~three (3)~~ **ten (10)** grams or more, **but less than twenty-eight (28) grams;** or

(2) the person possesses the drug:

(A) on a school bus;

(B) in, on, or within two hundred (200) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center; or

~~(B)~~ **(C) while** the person was also in possession of a firearm (as defined in IC 35-47-1-5).

~~(2)~~ **(c) The offense is** a Class B felony:

(1) if: ~~the person in possession of the methamphetamine possesses less than three (3) grams of pure or adulterated methamphetamine;~~

~~(A) on a school bus; or~~

~~(B) in, on, 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; and~~

~~(3) a Class A felony if the person possesses the methamphetamine in an amount (pure or adulterated) weighing at least three (3) grams:~~

~~(A) on a school bus; or~~

~~(B) in, on, 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:~~

(A) the amount of the drug involved (pure or adulterated)

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weighs ten (10) grams or more, but less than twenty-eight (28) grams; and

(B) the person possesses the drug:

(i) on a school bus;

(ii) in, on, or within two hundred (200) feet of school property, a public park, a family housing complex, or a youth program center; or

(iii) while the person was also in possession of a firearm (as defined in IC 35-47-1-5); or

(2) if the amount of the drug involved weighs twenty-eight (28) grams or more.

SECTION 53. IC 35-50-2-2, AS AMENDED BY P.L.64-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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 felony or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony, **except for a Class C felony under IC 9-30-10-17,** 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)~~ **(3)** The felony committed was:

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

(B) battery (IC 35-42-2-1) with a deadly weapon or battery

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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 (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;

C o p y

(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;

(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;

(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;

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

(T) aggravated battery (IC 35-42-2-1.5); or

(U) disarming a law enforcement officer (IC 35-44-3-3.5).

(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 the sentence of a sex

C o p y

or violent offender (as defined in IC 11-8-8-5) 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 54. IC 35-50-2-8, AS AMENDED BY P.L.71-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Except as otherwise provided in this section, the state may seek to have a person sentenced as a habitual offender for any felony by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two (2) prior unrelated felony convictions.

(b) The state may not seek to have a person sentenced as a habitual offender for a felony offense under this section if:

(1) the offense is a misdemeanor that is enhanced to a felony in the same proceeding as the habitual offender proceeding solely because the person had a prior unrelated conviction;

~~(2) the offense is an offense under IC 9-30-10-16 or IC 9-30-10-17,~~ or

~~(3)~~ **(2)** all of the following apply:

(A) The offense is an offense under IC 16-42-19 or IC 35-48-4.

(B) The offense is not listed in section 2(b)(4) of this chapter.

(C) The total number of unrelated convictions that the person has for:

(i) dealing in or selling a legend drug under IC 16-42-19-27;

(ii) dealing in cocaine or a narcotic drug (IC 35-48-4-1);

(iii) dealing in a schedule I, II, III controlled substance (IC 35-48-4-2);

(iv) dealing in a schedule IV controlled substance

C o p y

(IC 35-48-4-3); and
(v) dealing in a schedule V controlled substance (IC 35-48-4-4);
does not exceed one (1).

(c) A person has accumulated two (2) prior unrelated felony convictions for purposes of this section only if:

(1) the second prior unrelated felony conviction was committed after sentencing for the first prior unrelated felony conviction; and

(2) the offense for which the state seeks to have the person sentenced as a habitual offender was committed after sentencing for the second prior unrelated felony conviction.

(d) A conviction does not count for purposes of this section as a prior unrelated felony conviction if:

(1) the conviction has been set aside;

(2) the conviction is one for which the person has been pardoned; or

(3) all of the following apply:

(A) The offense is an offense under IC 16-42-19 or IC 35-48-4.

(B) The offense is not listed in section 2(b)(4) of this chapter.

(C) The total number of unrelated convictions that the person has for:

(i) dealing in or selling a legend drug under IC 16-42-19-27;
(ii) dealing in cocaine or a narcotic drug (IC 35-48-4-1);
(iii) dealing in a schedule I, II, III controlled substance (IC 35-48-4-2);
(iv) dealing in a schedule IV controlled substance (IC 35-48-4-3); and
(v) dealing in a schedule V controlled substance (IC 35-48-4-4);
does not exceed one (1).

(e) The requirements in subsection (b) do not apply to a prior unrelated felony conviction that is used to support a sentence as a habitual offender. A prior unrelated felony conviction may be used under this section to support a sentence as a habitual offender even if the sentence for the prior unrelated offense was enhanced for any reason, including an enhancement because the person had been convicted of another offense. However, a prior unrelated felony conviction under IC 9-30-10-16, IC 9-30-10-17, IC 9-12-3-1 (repealed), or IC 9-12-3-2 (repealed) may not be used to support a sentence as a habitual offender.

(f) If the person was convicted of the felony in a jury trial, the jury

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shall reconvene for the sentencing hearing. If the trial was to the court or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing under IC 35-38-1-3.

(g) A person is a habitual offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated two (2) prior unrelated felony convictions.

(h) The court shall sentence a person found to be a habitual offender to an additional fixed term that is not less than the advisory sentence for the underlying offense nor more than three (3) times the advisory sentence for the underlying offense. However, the additional sentence may not exceed thirty (30) years.

SECTION 55. P.L.182-2009(ss), SECTION 493 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: SECTION 493. (a) As used in this SECTION, "commission" refers to the criminal code evaluation commission established by subsection (b).

(b) The criminal code evaluation commission is established to evaluate the criminal laws of Indiana. If, based on the commission's evaluation, the commission determines that changes are necessary or appropriate, the commission shall make recommendations to the general assembly for the modification of the criminal laws.

(c) For the 2011 interim, the commission shall study truth in sentencing, the department of correction's use of good time credit and earned credit time, and felony classifications.

~~(c)~~ **(d)** The commission may study other topics assigned by the legislative council or as directed by the commission chair.

~~(d)~~ **(e)** The commission may meet during the months of:

~~(1) July, August, and September of 2009;~~

~~(2)~~ **(1)** April, May, June, July, August, and September of 2010; and

~~(3)~~ **(2)** June, July, August, ~~and~~ September, **and October** of 2011.

~~(e)~~ **(f)** The commission consists of seventeen (17) 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 attorney general or the attorney general's designee.

(4) The commissioner of the department of correction or the

C o p y

commissioner's designee.

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

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

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

(8) Two (2) judges who exercise criminal jurisdiction, who may not be affiliated with the same political party, to be appointed by the governor.

(9) Two (2) professors employed by a law school in Indiana whose expertise includes criminal law, to be appointed by the governor.

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

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

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

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

~~(j)~~ **(k)** The commission shall submit a final report of the results of its study to the legislative council before November 1, 2011. The report must be in an electronic format under IC 5-14-6.

~~(k)~~ **(l)** The Indiana criminal justice institute shall provide staff support to the commission to prepare:

(1) minutes of each meeting; and

(2) the final report.

~~(l)~~ **(m)** The legislative services agency shall provide staff support to the commission to:

(1) advise the commission on legal matters, criminal procedures, and legal research; and

(2) draft potential legislation.

~~(m)~~ **(n)** Each member of the commission 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

C o p y

committees established by the legislative council.

~~(n)~~ **(o)** The affirmative votes of a majority of all the members who serve on the commission are required for the commission to take action on any measure, including the final report.

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

~~(p)~~ **(q)** This SECTION expires December 31, 2011.

SECTION 56. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]: IC 35-43-4-2.5; IC 35-43-5-3.6; IC 35-50-2-2.1.

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