
HOUSE BILL No. 1530

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
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Effective: July 1, 2011.

Foley, Pierce, Culver, Lawson L

January 20, 2011, read first time and referred to Committee on Courts and Criminal Code.



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

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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.)

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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.

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HOUSE BILL No. 1530

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:

- 1 SECTION 1. IC 11-8-1-3.1 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2011]: **Sec. 3.1. "Average daily marginal cost of incarcerating an**
- 4 **offender" means the average daily cost to the department to**
- 5 **commit one (1) additional offender to the department without**
- 6 **building additional beds as determined under IC 11-10-13-1(b).**
- 7 SECTION 2. IC 11-8-1-5.6 IS AMENDED TO READ AS
- 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.6. "Community
- 9 transition program commencement date" means the following:
- 10 (1) Not earlier than sixty (60) days and not later than thirty (30)
- 11 days before an offender's expected release date, if the most
- 12 serious offense for which the person is committed is a Class D
- 13 felony.
- 14 (2) Not earlier than ninety (90) days and not later than thirty (30)
- 15 days before an offender's expected release date, if the most



1 serious offense for which the person is committed is a Class C
 2 felony and subdivision (3) does not apply.
 3 (3) Not earlier than one hundred twenty (120) days and not later
 4 than thirty (30) days before an offender's expected release date, if:
 5 (A) the most serious offense for which the person is committed
 6 is a Class C felony;
 7 (B) all of the offenses for which the person was concurrently
 8 or consecutively sentenced are offenses under IC 16-42-19 or
 9 IC 35-48-4; and
 10 (C) none of the offenses for which the person was concurrently
 11 or consecutively sentenced are listed in ~~IC 35-50-2-2(b)(4)~~.
 12 **IC 35-50-2-2(b)(3).**
 13 (4) Not earlier than one hundred twenty (120) days and not later
 14 than thirty (30) days before an offender's expected release date, if
 15 the most serious offense for which the person is committed is a
 16 Class A or Class B felony and subdivision (5) does not apply.
 17 (5) Not earlier than one hundred eighty (180) days and not later
 18 than thirty (30) days before an offender's expected release date, if:
 19 (A) the most serious offense for which the person is committed
 20 is a Class A or Class B felony;
 21 (B) all of the offenses for which the person was concurrently
 22 or consecutively sentenced are offenses under IC 16-42-19 or
 23 IC 35-48-4; and
 24 (C) none of the offenses for which the person was concurrently
 25 or consecutively sentenced are listed in ~~IC 35-50-2-2(b)(4)~~.
 26 **IC 35-50-2-2(b)(3).**
 27 SECTION 3. IC 11-10-13-1 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The department
 29 shall develop a methodology for determining the average daily cost of
 30 incarcerating an offender.
 31 (b) **The department shall develop a methodology for**
 32 **determining the average daily marginal cost of incarcerating an**
 33 **offender. The costs must include the additional expenses of**
 34 **providing food, clothing, and health care to a new offender. The**
 35 **costs do not include the costs of new facilities or additional staff.**
 36 (c) **The department shall annually determine the average length**
 37 **of stay for a Class D felony offender in the department.**
 38 SECTION 4. IC 11-10-16 IS ADDED TO THE INDIANA CODE
 39 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2011]:
 41 **Chapter 16. County Incentives for Class D Felony Offenders**
 42 **Sec. 1. The department shall administer an incentive and**

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

3 **Sec. 2. (a) The department shall establish a baseline average**
4 **number of Class D felony offenders that each county commits**
5 **annually to the department based on the 2007, 2008, 2009, and**
6 **2010 calendar years.**

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

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

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

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

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

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

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

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

- 32 **(1) probation programs;**
- 33 **(2) work release programs;**
- 34 **(3) community corrections programs; or**
- 35 **(4) problem solving courts.**

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

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

42 **STEP ONE: Subtract the baseline average for that county**

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1 described in section 2(a) of this chapter from the number of
 2 Class D felony offenders a county commits to the department
 3 in a calendar year.
 4 **STEP TWO: Multiply the number of offenders determined**
 5 **under STEP ONE by the average number of days of the**
 6 **length of stay for a Class D felony offender in the department**
 7 **as determined under IC 11-10-13-1(c).**
 8 **STEP THREE: Multiply the amount determined under STEP**
 9 **TWO by the average daily marginal cost of incarcerating an**
 10 **offender as determined under IC 11-10-13-1(b).**
 11 **STEP FOUR: Multiply the amount determined under STEP**
 12 **THREE by fifty percent (50%).**

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

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

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

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

- 26 (1) Residential or work release programs:
- 27 (2) House arrest, home detention, and electronic monitoring
- 28 programs:
- 29 (3) Community restitution or service programs:
- 30 (4) Victim-offender reconciliation programs:
- 31 (5) Jail services programs:
- 32 (6) Jail work crews:
- 33 (7) Community work crews:
- 34 (8) Juvenile detention alternative programs:
- 35 (9) Day reporting programs:
- 36 (10) Faith based programs:
- 37 (11) Other community corrections programs approved by the
- 38 department:

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

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

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

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

- 12 (1) may not be used by the department for any other purpose; **and**
 13 (2) **may be used by grant recipients only to provide**
 14 **community corrections program services for persons who**
 15 **have been convicted of a felony.**

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

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

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

- 28 (1) Provide consultation and technical assistance to counties to
 29 aid in the development of community corrections plans.
 30 (2) Provide training for community corrections personnel and
 31 board members to the extent funds are available.
 32 (3) Adopt under IC 4-22-2 rules governing application by
 33 counties for financial aid under this chapter, including the content
 34 of community corrections plans.
 35 (4) Adopt under IC 4-22-2 rules governing the disbursement of
 36 monies to a county and the county's certification of expenditures,
 37 **including rules that:**
 38 (A) **require that any money received from the state to fund**
 39 **a community corrections program may be used only to**
 40 **provide services for persons who have been convicted of a**
 41 **felony; and**
 42 (B) **require that any user fees collected:**

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(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

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

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

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

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

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

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

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

35 **(3) A requirement that any user fees collected:**

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

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

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

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

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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 misdemeanor fund of each county the greatest of the following:

- (1) The sum determined by multiplying the total amount appropriated for the county misdemeanor 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 misdemeanor 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

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

- 8 (1) **by a community corrections program that:**
 - 9 (A) **provides supervision of home detention under**
 - 10 **IC 35-38-2.5-5; and**
 - 11 (B) **is funded in whole or in part by money received from**
 - 12 **the state; and**
- 13 (2) **from persons who have been convicted of a felony;**
- 14 **may be used only to provide home detention services for persons**
- 15 **who have been convicted of a felony.**

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

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

28 (b) The department shall set the per diem rate under this section. In
29 setting the per diem rate for a community, the department may consider
30 the direct costs incurred by the community to provide a community
31 transition program. The per diem may not be less than seven dollars
32 (\$7).

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

- 36 (d) Money received by a community under this section:
 - 37 (1) shall be deposited in the community transition program fund
 - 38 for the community; **and**
 - 39 (2) **may be used only to provide services for persons who have**
 - 40 **been convicted of a felony.**

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

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

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

- 6 (1) educational and occupational qualifications for employment
- 7 as a probation officer;
- 8 (2) compensation of probation officers;
- 9 (3) protection of probation records and disclosure of information
- 10 contained in those records; ~~and~~
- 11 (4) presentence investigation reports;
- 12 **(5) risk classification for probationers;**
- 13 **(6) supervision levels for probationers based on risk**
- 14 **classification;**
- 15 **(7) a schedule of progressive probation incentives and**
- 16 **violation sanctions, including judicial review procedures; and**
- 17 **(8) qualifications for probation officers to administer**
- 18 **probation violation sanctions under IC 35-38-2-3(e).**

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

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

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

- 31 (1) the implementation and management of probation case
- 32 classification; and
- 33 (2) the development and use of workload information.

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

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

- 42 (1) Eligibility standards.

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- 1 (2) Testing requirements and procedures.
- 2 (3) Procedures and requirements for placement in programs
- 3 provided by school corporations or special education cooperatives
- 4 under IC 20-35-5.
- 5 (4) Procedures and requirements for placement in residential
- 6 special education institutions or facilities under IC 20-35-6-2 and
- 7 511 IAC 7-27-12.
- 8 (5) Development and implementation of individual education
- 9 programs for eligible children in:
- 10 (A) accordance with applicable requirements of state and
- 11 federal laws and rules; and
- 12 (B) coordination with:
- 13 (i) individual case plans; and
- 14 (ii) informal adjustment programs or dispositional decrees
- 15 entered by courts having juvenile jurisdiction under
- 16 IC 31-34 and IC 31-37.
- 17 (6) Sources of federal, state, and local funding that is or may be
- 18 available to support special education programs for children for
- 19 whom proceedings have been initiated under IC 31-34 and
- 20 IC 31-37.

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

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

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

- 31 (1) selection, training, distribution, and removal of probation
- 32 officers;
- 33 (2) methods and procedure for the administration of probation,
- 34 including investigation, supervision, workloads, **case planning,**
- 35 **use of evidence based practices,** record keeping, and reporting;
- 36 and
- 37 (3) use of citizen volunteers and public and private agencies.

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

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

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1 "board" refers to the board of directors of the judicial conference
 2 of Indiana established by IC 33-38-9-3.
 3 (b) The board shall adopt rules to establish standards of
 4 probation supervision provided by probation departments based
 5 on validated risk assessments of offenders.
 6 (c) The rules adopted under this section must include the
 7 following:
 8 (1) Guidelines that probation departments shall use to classify
 9 an offender as a:
 10 (A) low risk;
 11 (B) medium risk; or
 12 (C) high risk;
 13 offender based on a validated risk assessment of the offender.
 14 Guidelines established under this subdivision must include
 15 procedures to be used to reclassify offenders.
 16 (2) Provisions establishing what constitutes:
 17 (A) an active level of supervision; and
 18 (B) an administrative level of supervision;
 19 of an offender by a probation department.
 20 (3) A requirement that probation departments provide the
 21 following levels of supervision for criminal offenders released
 22 on probation:
 23 (A) An offender classified as a high risk offender shall be
 24 placed on active supervision at all times.
 25 (B) An offender classified as a low risk or medium risk
 26 offender who is on probation for committing a
 27 misdemeanor shall be placed on:
 28 (i) active supervision for the first nine (9) months of the
 29 offender's probationary period; and
 30 (ii) administrative supervision after the first nine (9)
 31 months of the offender's probationary period if the
 32 offender has not been arrested during the probationary
 33 period or violated a condition of the offender's
 34 probation.
 35 (C) An offender classified as a low risk or medium risk
 36 offender who is on probation for committing a felony shall
 37 be placed on:
 38 (i) active supervision for the first twelve (12) months of
 39 the offender's probationary period; and
 40 (ii) administrative supervision after the first twelve (12)
 41 months of the offender's probationary period if the
 42 offender has not been arrested during the probationary

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

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

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

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

- 20 (1) Salaries for existing or new probation officer positions.
- 21 (2) Maintenance or establishment of administrative support
- 22 services to probation officers.
- 23 **(3) Development and use of a progressive sanctions policy for**
- 24 **violations of probation conditions.**
- 25 **(4) Development and use of evidence based supervision**
- 26 **practices and programs to reduce the risk of further offense.**
- 27 **(5) Establishment of a system to improve the efficiency and**
- 28 **coordination of offender services provided by supervision**
- 29 **agencies within a county to ensure that an offender is**
- 30 **supervised by only one (1) offender supervision agency.**

31 SECTION 19. IC 11-13-2-3 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) State financial
33 aid for support of probation services **to felons and high risk offenders**
34 may be made only to courts meeting the minimum standards adopted
35 by the judicial conference of Indiana. ~~and may not exceed fifty percent~~
36 ~~(50%) of the cost of the positions or services being financed.~~ Any court
37 having probation jurisdiction may apply for financial assistance under
38 this chapter by submitting an application to the conference for review.
39 The application shall be accompanied by detailed plans regarding the
40 use of the financial aid.

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

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

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

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

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

21 **Chapter 2.5. Probation Improvement Fund**

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

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

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

- 28 **(1) Appropriations from the general assembly.**
- 29 **(2) Donations, gifts, and money received from any other**
30 **source, including transfers from other funds or accounts.**

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

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

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

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

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

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

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

5 (A) to:

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

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

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

17 (B) as approved by the department; and

18 (2) reduce the number of probation revocations:

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

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

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

25 (1) on a form; and
 26 (2) in the manner;
 27 prescribed by the department.

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

30 Sec. 4. (a) The department:

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

34 (A) probation administration and services; and
 35 (B) community corrections programs;
 36 in the county; and

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

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1 **(b) To receive a grant under this section, a county must submit**
2 **an application to the department:**
3 **(1) on a form; and**
4 **(2) in the manner;**
5 **prescribed by the department.**
6 **(c) The department shall determine the amount of a grant**
7 **awarded under this section.**
8 **Sec. 5. The department shall adopt rules under IC 4-22-2 that**
9 **are necessary to implement this chapter.**
10 SECTION 22. IC 11-13-2.7 IS ADDED TO THE INDIANA CODE
11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2011]:
13 **Chapter 2.7. Substance Abuse Treatment Fund**
14 **Sec. 1. As used in this chapter, "fund" refers to the substance**
15 **abuse treatment fund established by section 2 of this chapter.**
16 **Sec. 2. (a) The substance abuse treatment fund is established to**
17 **provide grants under section 3 of this chapter. The fund shall be**
18 **administered by the department.**
19 **(b) Sources of money for the fund consist of the following:**
20 **(1) Appropriations from the general assembly.**
21 **(2) Donations, gifts, and money received from any other**
22 **source, including transfers from other funds or accounts.**
23 **(c) The expenses of administering the fund shall be paid from**
24 **money in the fund.**
25 **(d) The treasurer of state shall invest the money in the fund not**
26 **currently needed to meet the obligations of the fund in the same**
27 **manner as other public money may be invested. Interest that**
28 **accrues from these investments shall be deposited in the fund.**
29 **(e) Money in the fund at the end of a state fiscal year does not**
30 **revert to the state general fund.**
31 **(f) Money in the fund is appropriated continuously for the**
32 **purposes stated in section 3 of this chapter.**
33 **Sec. 3. (a) The department may award a grant from the fund to**
34 **a probation department to increase substance abuse treatment**
35 **access for persons on probation who have substance abuse**
36 **addictions.**
37 **(b) To receive a grant under this section, a probation**
38 **department must submit an application to the department:**
39 **(1) on a form; and**
40 **(2) in the manner;**
41 **prescribed by the department.**
42 **(c) The department shall determine the amount of a grant**

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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~~ **assist 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~~ **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~~

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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 (NH₃);
- (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;

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- 1 (C) location;
- 2 (D) installation; or
- 3 (E) operation;
- 4 of equipment for storage, handling, use, or transportation of
- 5 anhydrous ammonia or ammonia solution proximately caused the
- 6 theft or criminal conversion.

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

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

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

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

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

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

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

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

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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

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- 1 reasonable times at the person's home or elsewhere.
2 (11) Remain within the jurisdiction of the court, unless granted
3 permission to leave by the court or by the person's probation
4 officer.
5 (12) Answer all reasonable inquiries by the court or the person's
6 probation officer and promptly notify the court or probation
7 officer of any change in address or employment.
8 (13) Perform uncompensated work that benefits the community.
9 (14) Satisfy other conditions reasonably related to the person's
10 rehabilitation.
11 (15) Undergo home detention under IC 35-38-2.5.
12 (16) Undergo a laboratory test or series of tests approved by the
13 state department of health to detect and confirm the presence of
14 the human immunodeficiency virus (HIV) antigen or antibodies
15 to the human immunodeficiency virus (HIV), if:
16 (A) the person had been convicted of an offense relating to a
17 criminal sexual act and the offense created an
18 epidemiologically demonstrated risk of transmission of the
19 human immunodeficiency virus (HIV); or
20 (B) the person had been convicted of an offense relating to a
21 controlled substance and the offense involved:
22 (i) the delivery by any person to another person; or
23 (ii) the use by any person on another person;
24 of a contaminated sharp (as defined in IC 16-41-16-2) or other
25 paraphernalia that creates an epidemiologically demonstrated
26 risk of transmission of HIV by involving percutaneous contact.
27 (17) Refrain from any direct or indirect contact with an individual
28 and, if convicted of an offense under IC 35-46-3, any animal
29 belonging to the individual.
30 (18) Execute a repayment agreement with the appropriate
31 governmental entity or with a person for reasonable costs incurred
32 because of the taking, detention, or return of a missing child (as
33 defined in IC 10-13-5-4).
34 (19) Periodically undergo a laboratory chemical test (as defined
35 in IC 14-15-8-1) or series of chemical tests as specified by the
36 court to detect and confirm the presence of a controlled substance
37 (as defined in IC 35-48-1-9). The person on probation is
38 responsible for any charges resulting from a test and shall have
39 the results of any test under this subdivision reported to the
40 person's probation officer by the laboratory.
41 (20) If the person was confined in a penal facility, execute a
42 reimbursement plan as directed by the court and make repayments

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

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

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

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

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

13 (22) Participate in a reentry court program.

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

16 (1) the conditions of probation; and

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

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

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

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

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

34 (1) the term of imprisonment;

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

37 (3) the conditions.

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

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

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

- 8 (1) the clerk of the court shall comply with IC 5-2-9; and
 9 (2) the prosecuting attorney shall file a confidential form
 10 prescribed or approved by the division of state court
 11 administration with the clerk.

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

- 13 (1) convicted of an offense described in IC 10-13-6-10;
 14 (2) who has not previously provided a DNA sample in accordance
 15 with IC 10-13-6; and
 16 (3) whose sentence does not involve a commitment to the
 17 department of correction;

18 to provide a DNA sample as a condition of probation.

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

- 23 (1) the person has violated a condition of probation during the
 24 probationary period; and
 25 (2) the petition to revoke probation is filed during the
 26 probationary period or before the earlier of the following:
 27 (A) One (1) year after the termination of probation.
 28 (B) Forty-five (45) days after the state receives notice of the
 29 violation.

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

- 32 (1) order a summons to be issued to the person to appear; or
 33 (2) order a warrant for the person's arrest if there is a risk of the
 34 person's fleeing the jurisdiction or causing harm to others.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 offense that is the basis of the probation; or

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

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

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

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

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

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

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

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

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

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

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

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

31 (i) work release program; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~(4) (2) for each offender:~~

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

21 ~~(B) whose sentence may be suspended;~~

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

24 ~~(5) (3) notify the trial court and prosecuting attorney if the degree~~
25 ~~of security assigned differs from the court's recommendations;~~
26 ~~and~~

27 ~~(6) (4) petition the sentencing court under IC 35-38-1-21 for~~
28 ~~review of the sentence of an offender who is not a habitual~~
29 ~~offender sentenced under IC 35-50-2-8 or IC 35-50-2-10 and who~~
30 ~~the department has determined under subdivision (2) or~~
31 ~~subdivision (3); to be an appropriate candidate for home~~
32 ~~detention.~~

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

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

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

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

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

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

15 (A) relates to transportation safety;

16 (B) relates to public safety; or

17 (C) is taken from a:

18 (i) hospital or other health care facility;

19 (ii) telecommunications provider;

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

21 (iv) key facility;

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

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

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

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

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

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

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

35 (i) hospital or other health care facility;

36 (ii) telecommunications provider;

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

38 (iv) key facility;

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

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

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

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

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

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

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

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

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

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

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

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

26 (A) by another person;

27 (B) at another time;

28 (C) with different provisions; or

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

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

33 (A) by another person;

34 (B) at another time;

35 (C) with different provisions; or

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

37 commits counterfeiting, a Class D felony.

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

41 (1) by another person;

42 (2) at another time;

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1 (3) with different provisions; or
 2 (4) by authority of one who did not give authority;
 3 commits forgery, a ~~Class C~~ **Class D** felony.
 4 (c) This subsection applies to a person who applies for a driver's
 5 license (as defined in IC 9-13-2-48) **or a state identification card (as**
 6 **issued under IC 9-24-16).** A person who:
 7 (1) knowingly or intentionally uses a false or fictitious name or
 8 gives a false or fictitious address in an application for a driver's
 9 license **or a state identification card** or for a renewal or a
 10 duplicate of a driver's license **or a state identification card;** or
 11 (2) knowingly or intentionally makes a false statement or conceals
 12 a material fact or otherwise commits fraud in an application for a
 13 driver's license **or a state identification card;**
 14 commits application fraud, a Class D felony.
 15 (d) This subsection applies to a person who applies for a state
 16 identification card (as issued under ~~IC 9-24-16~~): A person who:
 17 (1) knowingly or intentionally uses false information in an
 18 application for an identification card or for a renewal or duplicate
 19 of an identification card; or
 20 (2) knowingly or intentionally makes a false statement or
 21 otherwise commits fraud in an application for an identification
 22 card;
 23 commits application fraud, a ~~Class D~~ felony.
 24 SECTION 37. IC 35-43-5-3 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) A person who:
 26 (1) being an officer, manager, or other person participating in the
 27 direction of a credit institution, knowingly or intentionally
 28 receives or permits the receipt of a deposit or other investment,
 29 knowing that the institution is insolvent;
 30 (2) knowingly or intentionally:
 31 (A) makes a false or misleading written statement; or
 32 (B) misrepresents:
 33 (i) the identity of the person or another person;
 34 (ii) a person as being a physician licensed under
 35 IC 25-22.5; or
 36 (iii) the identity or quality of property;
 37 with intent to obtain property, employment, or an educational
 38 opportunity;
 39 (3) misapplies entrusted property, property of a governmental
 40 entity, or property of a credit institution in a manner that the
 41 person knows is unlawful or that the person knows involves
 42 substantial risk of loss or detriment to either the owner of the

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

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

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

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

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

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

17 ~~(7) (6)~~ with intent to defraud an owner of a coin machine, deposits
18 a slug in that machine;

19 ~~(8) (7)~~ with intent to enable the person or another person to
20 deposit a slug in a coin machine, makes, possesses, or disposes of
21 a slug; **or**

22 ~~(9) (8)~~ disseminates to the public an advertisement that the person
23 knows is false, misleading, or deceptive, with intent to promote
24 the purchase or sale of property or the acceptance of employment;

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

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

31 commits deception, a Class A misdemeanor.

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

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

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1 identifying information of a person who is deceased:
 2 (1) without the other person's consent; and
 3 (2) with intent to:
 4 (A) harm or defraud another person;
 5 (B) assume another person's identity; or
 6 (C) profess to be another person;
 7 commits identity deception, a Class D felony.
 8 (b) However, the offense defined in subsection (a) is a Class C
 9 felony if:
 10 (1) a person obtains, possesses, transfers, or uses the identifying
 11 information of more than one hundred (100) persons;
 12 (2) the fair market value of the fraud or harm caused by the
 13 offense is at least fifty thousand dollars (\$50,000); ~~or~~
 14 (3) a person obtains, possesses, transfers, or uses the identifying
 15 information of a person who is less than eighteen (18) years of
 16 age and is:
 17 (A) the person's son or daughter;
 18 (B) a dependent of the person;
 19 (C) a ward of the person; or
 20 (D) an individual for whom the person is a guardian; **or**
 21 **(4) a person obtains, possesses, transfers, or uses the**
 22 **identifying information of another person with intent to:**
 23 **(A) commit terrorism; or**
 24 **(B) obtain or transport a weapon of mass destruction.**
 25 (c) The conduct prohibited in subsections (a) and (b) does not apply
 26 to:
 27 (1) a person less than twenty-one (21) years of age who uses the
 28 identifying information of another person to acquire an alcoholic
 29 beverage (as defined in IC 7.1-1-3-5);
 30 (2) a minor (as defined in IC 35-49-1-4) who uses the identifying
 31 information of another person to acquire:
 32 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
 33 (B) a periodical, a videotape, or other communication medium
 34 that contains or depicts nudity (as defined in IC 35-49-1-5);
 35 (C) admittance to a performance (live or film) that prohibits
 36 the attendance of the minor based on age; or
 37 (D) an item that is prohibited by law for use or consumption by
 38 a minor; or
 39 (3) any person who uses the identifying information for a lawful
 40 purpose.
 41 (d) It is not a defense in a prosecution under subsection (a) or (b)
 42 that no person was harmed or defrauded.

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

- 6 (1) with intent to harm or defraud another person;
 7 (2) with intent to assume another person's identity; or
 8 (3) with intent to profess to be another person;

9 commits synthetic identity deception, a Class D felony.

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

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

13 or

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

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

18 **(A) commit terrorism; or**

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

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

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

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

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

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

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

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

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

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

- 42 (1) directly from a credit card; or

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

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

- 5 (1) identity deception (IC 35-43-5-3.5);
- 6 (2) synthetic identity deception (IC 35-43-5-3.8); **or**
- 7 (3) fraud (IC 35-43-5-4); **or**
- 8 ~~(4) terroristic deception (IC 35-43-5-3.6);~~

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

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

- 19 (1) makes, utters, presents, or causes to be presented to an insurer
- 20 or an insurance claimant, a claim statement that contains false,
- 21 incomplete, or misleading information concerning the claim;
- 22 (2) presents, causes to be presented, or prepares with knowledge
- 23 or belief that it will be presented to or by an insurer, an oral, a
- 24 written, or an electronic statement that the person knows to
- 25 contain materially false information as part of, in support of, or
- 26 concerning a fact that is material to:
 - 27 (A) the rating of an insurance policy;
 - 28 (B) a claim for payment or benefit under an insurance policy;
 - 29 (C) premiums paid on an insurance policy;
 - 30 (D) payments made in accordance with the terms of an
 - 31 insurance policy;
 - 32 (E) an application for a certificate of authority;
 - 33 (F) the financial condition of an insurer; or
 - 34 (G) the acquisition of an insurer;
- 35 or conceals any information concerning a subject set forth in
- 36 clauses (A) through (G);
- 37 (3) solicits or accepts new or renewal insurance risks by or for an
- 38 insolvent insurer or other entity regulated under IC 27;
- 39 (4) removes:
 - 40 (A) the assets;
 - 41 (B) the record of assets, transactions, and affairs; or
 - 42 (C) a material part of the assets or the record of assets,

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1 transactions, and affairs;
 2 of an insurer or another entity regulated under IC 27, from the
 3 home office, other place of business, or place of safekeeping of
 4 the insurer or other regulated entity, or conceals or attempts to
 5 conceal from the department of insurance assets or records
 6 referred to in clauses (A) through (B); or
 7 (5) diverts funds of an insurer or another person in connection
 8 with:
 9 (A) the transaction of insurance or reinsurance;
 10 (B) the conduct of business activities by an insurer or another
 11 entity regulated under IC 27; or
 12 (C) the formation, acquisition, or dissolution of an insurer or
 13 another entity regulated under IC 27;
 14 commits insurance fraud. Except as provided in subsection (b),
 15 insurance fraud is a Class D felony.
 16 (b) An offense described in subsection (a) is a Class C felony if:
 17 (1) the person who commits the offense has a prior unrelated
 18 conviction under this section; or
 19 (2) the:
 20 (A) value of property, services, or other benefits obtained or
 21 attempted to be obtained by the person as a result of the
 22 offense; or
 23 (B) economic loss suffered by another person as a result of the
 24 offense;
 25 is at least ~~two thousand five hundred dollars (\$2,500)~~ **fifty**
 26 **thousand dollars (\$50,000)**.
 27 (c) A person who knowingly and with intent to defraud makes a
 28 material misstatement in support of an application for the issuance of
 29 an insurance policy commits insurance application fraud, a Class A
 30 misdemeanor.
 31 SECTION 42. IC 35-43-5-5 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) A person who
 33 knowingly or intentionally issues or delivers a check, a draft, or an
 34 order on a credit institution for the payment of or to acquire money or
 35 other property, knowing that it will not be paid or honored by the credit
 36 institution upon presentment in the usual course of business, commits
 37 check deception, a Class A misdemeanor. However, the offense is a
 38 Class D felony if the amount of the check, draft, or order is at least ~~two~~
 39 ~~thousand five hundred~~ **seven hundred fifty** dollars ~~(\$2,500)~~ **and the**
 40 **property acquired by the person was a motor vehicle: (\$750)**.
 41 (b) An unpaid and dishonored check, a draft, or an order that has the
 42 drawee's refusal to pay and reason printed, stamped, or written on or

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1 attached to it constitutes prima facie evidence:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (B) public relief or assistance;
14 except as authorized by law;

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

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

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

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

26 (b) The offense is:

27 (1) a Class D felony if

28 ~~(A) the amount of public relief or assistance involved is more~~
29 ~~than two hundred fifty dollars (\$250) seven hundred fifty~~
30 ~~dollars (\$750) but less than two thousand five hundred dollars~~
31 ~~(\$2,500); or~~

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

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

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

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1 residence:

- 2 (1) ~~his~~ **the person's** conviction; and
- 3 (2) whether the defendant is placed on probation and restitution
- 4 is ordered under IC 35-38-2.

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

- 9 (1) files a Medicaid claim, including an electronic claim, in
- 10 violation of IC 12-15;
- 11 (2) obtains payment from the Medicaid program under IC 12-15
- 12 by means of a false or misleading oral or written statement or
- 13 other fraudulent means;
- 14 (3) acquires a provider number under the Medicaid program
- 15 except as authorized by law;
- 16 (4) alters with the intent to defraud or falsifies documents or
- 17 records of a provider (as defined in 42 CFR 1000.30) that are
- 18 required to be kept under the Medicaid program; or
- 19 (5) conceals information for the purpose of applying for or
- 20 receiving unauthorized payments from the Medicaid program;

21 commits Medicaid fraud, a Class D felony.

22 (b) The offense described in subsection (a) is a Class C felony if the
 23 fair market value of the offense is at least ~~one hundred thousand dollars~~
 24 ~~(\$100,000).~~ **fifty thousand dollars (\$50,000).**

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

- 28 (1) files a children's health insurance program claim, including an
- 29 electronic claim, in violation of IC 12-17.6;
- 30 (2) obtains payment from the children's health insurance program
- 31 under IC 12-17.6 by means of a false or misleading oral or written
- 32 statement or other fraudulent means;
- 33 (3) acquires a provider number under the children's health
- 34 insurance program except as authorized by law;
- 35 (4) alters with intent to defraud or falsifies documents or records
- 36 of a provider (as defined in 42 CFR 1002.301) that are required
- 37 to be kept under the children's health insurance program; or
- 38 (5) conceals information for the purpose of applying for or
- 39 receiving unauthorized payments from the children's health
- 40 insurance program;

41 commits insurance fraud, a Class D felony.

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

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1 fair market value of the offense is at least ~~one hundred thousand dollars~~
2 ~~(\$100,000)~~; **fifty thousand dollars (\$50,000)**.

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

- 7 (1) to defraud a state or federally chartered or federally insured
- 8 financial institution; or
- 9 (2) to obtain any of the money, funds, credits, assets, securities,
- 10 or other property owned by or under the custody or control of a
- 11 state or federally chartered or federally insured financial
- 12 institution by means of false or fraudulent pretenses,
- 13 representations, or promises;

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

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

- 19 (1) an institution with accounts insured by the Federal Deposit
- 20 Insurance Corporation;
- 21 (2) a credit union with accounts insured by the National Credit
- 22 Union Administration Board;
- 23 (3) a federal home loan bank or a member, as defined in Section
- 24 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), as in
- 25 effect on December 31, 1990, of the Federal Home Loan Bank
- 26 System; or
- 27 (4) a bank, banking association, land bank, intermediate credit
- 28 bank, bank for cooperatives, production credit association, land
- 29 bank association, mortgage association, trust company, savings
- 30 bank, or other banking or financial institution organized or
- 31 operating under the laws of the United States or of the state.

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

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

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

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

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

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- 1 presentment in the usual course of business;
- 2 (B) using false or altered evidence of identity or residence;
- 3 (C) using a false or an altered account number; or
- 4 (D) using a false or an altered check, draft, order, or electronic
- 5 instrument;

- 6 (2) by:
 - 7 (A) depositing the minimum initial deposit required to open an
 - 8 account; and
 - 9 (B) either making no additional deposits or making insufficient
 - 10 additional deposits to insure debits to the account; or

11 (3) by opening accounts with more than one (1) financial
 12 institution in either a consecutive or concurrent time period;
 13 commits check fraud, a Class D felony. However, the offense is a Class
 14 C felony if the person has a prior unrelated conviction under this
 15 section or the aggregate amount of property obtained is at least
 16 ~~twenty-five thousand dollars (\$25,000):~~ **fifty thousand dollars**
 17 **(\$50,000).**

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

- 21 (1) knowingly or intentionally:
 - 22 ~~(A) manufactures;~~
 - 23 ~~(B) finances the manufacture of;~~
 - 24 ~~(C) (A) delivers; or~~
 - 25 ~~(D) (B) finances the delivery of;~~
 - 26 cocaine or a narcotic drug, pure or adulterated, classified in
 - 27 schedule I or II; or

- 28 (2) possesses, with intent to:
 - 29 ~~(A) manufacture;~~
 - 30 ~~(B) finance the manufacture of;~~
 - 31 ~~(C) (A) deliver; or~~
 - 32 ~~(D) (B) finance the delivery of;~~
 - 33 cocaine or a narcotic drug, pure or adulterated, classified in
 - 34 schedule I or II;

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

- 37 (b) The offense is a ~~Class A~~ **Class B** felony if:
 - 38 (1) the **cumulative** amount of the drug involved **in any fourteen**
 39 **(14) day period weighs three (3) is ten (10) grams or more, but**
 40 **less than twenty-eight (28) grams;**
 - 41 **(2) the person manufactured the drug;**
 - 42 ~~(2) (3) the person:~~

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- 1 (A) delivered; or
 2 (B) financed the delivery of;
 3 the drug to a person under eighteen (18) years of age at least three
 4 (3) years junior to the person; or
 5 ~~(3)~~ **(4)** the person ~~manufactured~~, delivered or financed the
 6 delivery of the drug:
 7 (A) on a school bus; ~~or~~
 8 (B) in, on, or within ~~one thousand (1,000)~~ **two hundred (200)**
 9 feet of:
 10 (i) school property;
 11 (ii) a public park;
 12 (iii) a family housing complex; or
 13 (iv) a youth program center; **or**
 14 **(C) the person delivered the drug while possessing a**
 15 **firearm (as defined in IC 35-47-1-5).**
 16 **(c) The offense is a Class A felony if:**
 17 **(1) the cumulative amount of the drug involved in any**
 18 **fourteen (14) day period is twenty-eight (28) grams or more;**
 19 **(2) the:**
 20 **(A) cumulative amount of the drug involved in any**
 21 **fourteen (14) day period is ten (10) grams or more; and**
 22 **(B) person:**
 23 **(i) manufactured the drug; or**
 24 **(ii) delivered or financed the delivery of the drug on a**
 25 **school bus, or in, on, or within two hundred (200) feet of**
 26 **school property, a public park, a family housing**
 27 **complex, or a youth program center, or the person**
 28 **delivered the drug while possessing a firearm (as defined**
 29 **in IC 35-47-1-5); or**
 30 **(3) the person manufactured the drug on a school bus, or in,**
 31 **on, or within two hundred (200) feet of school property, a**
 32 **public park, a family housing complex, or a youth program**
 33 **center.**
 34 SECTION 49. IC 35-48-4-1.1, AS ADDED BY P.L.151-2006,
 35 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2011]: Sec. 1.1. (a) A person who:
 37 (1) knowingly or intentionally:
 38 ~~(A)~~ manufactures;
 39 ~~(B)~~ finances the manufacture of;
 40 ~~(C)~~ **(A)** delivers; or
 41 ~~(D)~~ **(B)** finances the delivery of;
 42 methamphetamine, pure or adulterated, or

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- 1 (2) possesses, with intent to:
 2 (A) manufacture;
 3 (B) finance the manufacture of;
 4 (C) (A) deliver; or
 5 (D) (B) finance the delivery of;
 6 methamphetamine, pure or adulterated;
 7 commits dealing in methamphetamine, a ~~Class B~~ **Class C** felony,
 8 except as provided in subsection (b) or (c).
 9 (b) The offense is a ~~Class A~~ **Class B** felony if:
 10 (1) the **cumulative** amount of the drug involved **in any fourteen**
 11 **(14) day period weighs three (3) is ten (10) grams or more, but**
 12 **less than twenty-eight (28) grams;**
 13 **(2) the person manufactured the drug;**
 14 ~~(2)~~ **(3) the person:**
 15 (A) delivered; or
 16 (B) financed the delivery of;
 17 the drug to a person under eighteen (18) years of age at least three
 18 (3) years junior to the person; or
 19 ~~(3)~~ **(4) the person manufactured, delivered or financed the**
 20 **delivery of the drug:**
 21 (A) on a school bus; ~~or~~
 22 (B) in, on, or within ~~one thousand (1,000)~~ **two hundred (200)**
 23 **feet of:**
 24 (i) school property;
 25 (ii) a public park;
 26 (iii) a family housing complex; or
 27 (iv) a youth program center; **or**
 28 **(C) the person delivered the drug while possessing a**
 29 **firearm (as defined in IC 35-47-1-5).**
 30 (c) The offense is a **Class A** felony if:
 31 (1) the **cumulative amount of the drug involved in any**
 32 **fourteen (14) day period is twenty-eight (28) grams or more;**
 33 **(2) the:**
 34 **(A) cumulative amount of the drug involved in any**
 35 **fourteen (14) day period is ten (10) grams or more; and**
 36 **(B) person:**
 37 **(i) manufactured the drug; or**
 38 **(ii) delivered or financed the delivery of the drug on a**
 39 **school bus, or in, on, or within two hundred (200) feet of**
 40 **school property, a public park, a family housing**
 41 **complex, or a youth program center, or the person**
 42 **delivered the drug while possessing a firearm (as defined**

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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;

~~(3)~~ **(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

~~(4)~~ **(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;

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- 1 (ii) a public park;
 2 (iii) a family housing complex; or
 3 (iv) a youth program center; **or**
 4 **(5) the person delivered the substance while possessing a**
 5 **firearm (as defined in IC 35-47-1-5).**
 6 **(c) The offense is a Class A felony if:**
 7 **(1) the cumulative amount of the substance involved in any**
 8 **fourteen (14) day period is:**
 9 **(A) if the substance is not in pill form, twenty-eight (28)**
 10 **grams or more; or**
 11 **(B) if the substance is in pill form, seventy-two (72) pills or**
 12 **more;**
 13 **(2) the:**
 14 **(A) cumulative amount of the substance involved in any**
 15 **fourteen (14) day period is:**
 16 **(i) if the substance is not in pill form, ten (10) grams or**
 17 **more; or**
 18 **(ii) if the substance is in pill form, twenty-four (24) pills**
 19 **or more; and**
 20 **(B) person:**
 21 **(i) manufactured the substance; or**
 22 **(ii) delivered or financed the delivery of the substance on**
 23 **a school bus, or in, on, or within two hundred (200) feet**
 24 **of school property, a public park, a family housing**
 25 **complex, or a youth program center, or the person**
 26 **delivered the substance while possessing a firearm (as**
 27 **defined in IC 35-47-1-5); or**
 28 **(3) the person manufactured the substance on a school bus, or**
 29 **in, on, or within two hundred (200) feet of school property, a**
 30 **public park, a family housing complex, or a youth program**
 31 **center.**
 32 SECTION 51. IC 35-48-4-6, AS AMENDED BY P.L.151-2006,
 33 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2011]: Sec. 6. (a) A person who, without a valid prescription
 35 or order of a practitioner acting in the course of the practitioner's
 36 professional practice, knowingly or intentionally possesses cocaine
 37 (pure or adulterated) or a narcotic drug (pure or adulterated) classified
 38 in schedule I or II commits possession of cocaine or a narcotic drug, a
 39 Class D felony, except as provided in subsection (b) **or (c).**
 40 (b) The offense is
 41 ~~(†)~~ a Class C felony if:
 42 ~~(A)~~ **(1)** the amount of the drug involved (pure or adulterated)

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- 1 weighs ~~three (3)~~ **ten (10)** grams or more, **but less than**
 2 **twenty-eight (28) grams**; or
 3 **(2) the person possesses the drug:**
 4 **(A) on a school bus;**
 5 **(B) in, on, or within two hundred (200) feet of:**
 6 **(i) school property;**
 7 **(ii) a public park;**
 8 **(iii) a family housing complex; or**
 9 **(iv) a youth program center; or**
 10 ~~(B)~~ **(C) while** the person was also in possession of a firearm
 11 (as defined in IC 35-47-1-5).
 12 ~~(2)~~ **(c) The offense is a Class B felony:**
 13 **(1) if: the person in possession of the cocaine or narcotic drug**
 14 **possesses less than three (3) grams of pure or adulterated cocaine**
 15 **or a narcotic drug-**
 16 **(A) on a school bus; or**
 17 **(B) in, on, or within one thousand (1,000) feet of:**
 18 **(i) school property;**
 19 **(ii) a public park;**
 20 **(iii) a family housing complex; or**
 21 **(iv) a youth program center; and**
 22 **(3) a Class A felony if the person possesses the cocaine or**
 23 **narcotic drug in an amount (pure or adulterated) weighing at least**
 24 **three (3) grams:**
 25 **(A) on a school bus; or**
 26 **(B) in, on, or within one thousand (1,000) feet of:**
 27 **(i) school property;**
 28 **(ii) a public park;**
 29 **(iii) a family housing complex; or**
 30 **(iv) a youth program center.**
 31 **(A) the amount of the drug involved (pure or adulterated)**
 32 **weighs ten (10) grams or more, but less than twenty-eight**
 33 **(28) grams; and**
 34 **(B) the person possesses the drug:**
 35 **(i) on a school bus;**
 36 **(ii) in, on, or within two hundred (200) feet of school**
 37 **property, a public park, a family housing complex, or a**
 38 **youth program center; or**
 39 **(iii) while the person was also in possession of a firearm**
 40 **(as defined in IC 35-47-1-5); or**
 41 **(2) if the amount of the drug involved weighs twenty-eight**
 42 **(28) grams or more.**

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

9 (b) The offense is

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

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

14 **(2) the person possesses the drug:**

15 **(A) on a school bus;**

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

17 **(i) school property;**

18 **(ii) a public park;**

19 **(iii) a family housing complex; or**

20 **(iv) a youth program center; or**

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

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

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

27 **(A) on a school bus; or**

28 **(B) in, on, or within one thousand (1,000) feet of:**

29 **(i) school property;**

30 **(ii) a public park;**

31 **(iii) a family housing complex; or**

32 **(iv) a youth program center; and**

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

36 **(A) on a school bus; or**

37 **(B) in, on, or within one thousand (1,000) feet of:**

38 **(i) school property;**

39 **(ii) a public park;**

40 **(iii) a family housing complex; or**

41 **(iv) a youth program center.**

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

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- 1 weighs ten (10) grams or more, but less than twenty-eight
- 2 (28) grams; and
- 3 (B) the person possesses the drug:
- 4 (i) on a school bus;
- 5 (ii) in, on, or within two hundred (200) feet of school
- 6 property, a public park, a family housing complex, or a
- 7 youth program center; or
- 8 (iii) while the person was also in possession of a firearm
- 9 (as defined in IC 35-47-1-5); or
- 10 (2) if the amount of the drug involved weighs twenty-eight
- 11 (28) grams or more.

12 SECTION 53. IC 35-50-2-2, AS AMENDED BY P.L.64-2008,
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2011]: Sec. 2. (a) The court may suspend any part of a
 15 sentence for a felony, except as provided in this section. ~~or in section~~
 16 ~~2.1 of this chapter.~~

17 (b) Except as provided in subsection (i), with respect to the
 18 following crimes listed in this subsection, the court may suspend only
 19 that part of the sentence that is in excess of the minimum sentence,
 20 unless the court has approved placement of the offender in a forensic
 21 diversion program under IC 11-12-3.7:

22 (1) The crime committed was a Class A felony or Class B felony
 23 and the person has a prior unrelated felony conviction.

24 (2) The crime committed was a Class C felony, **except for a**
 25 **Class C felony under IC 9-30-10-17**, and less than seven (7)
 26 years have elapsed between the date the person was discharged
 27 from probation, imprisonment, or parole, whichever is later, for
 28 a prior unrelated felony conviction and the date the person
 29 committed the Class C felony for which the person is being
 30 sentenced.

31 ~~(3) The crime committed was a Class D felony and less than three~~
 32 ~~(3) years have elapsed between the date the person was~~
 33 ~~discharged from probation, imprisonment, or parole, whichever~~
 34 ~~is later, for a prior unrelated felony conviction and the date the~~
 35 ~~person committed the Class D felony for which the person is~~
 36 ~~being sentenced. However, the court may suspend the minimum~~
 37 ~~sentence for the crime only if the court orders home detention~~
 38 ~~under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum~~
 39 ~~sentence specified for the crime under this chapter.~~

- 40 ~~(4)~~ (3) The felony committed was:
- 41 (A) murder (IC 35-42-1-1);
 - 42 (B) battery (IC 35-42-2-1) with a deadly weapon or battery

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- 1 causing death;
- 2 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- 3 (D) kidnapping (IC 35-42-3-2);
- 4 (E) confinement (IC 35-42-3-3) with a deadly weapon;
- 5 (F) rape (IC 35-42-4-1) as a Class A felony;
- 6 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
- 7 felony;
- 8 (H) except as provided in subsection (i), child molesting
- 9 (IC 35-42-4-3) as a Class A or Class B felony, unless:
- 10 (i) the felony committed was child molesting as a Class B
- 11 felony;
- 12 (ii) the victim was not less than twelve (12) years old at the
- 13 time the offense was committed;
- 14 (iii) the person is not more than four (4) years older than the
- 15 victim, or more than five (5) years older than the victim if
- 16 the relationship between the person and the victim was a
- 17 dating relationship or an ongoing personal relationship (not
- 18 including a family relationship);
- 19 (iv) the person did not have a position of authority or
- 20 substantial influence over the victim; and
- 21 (v) the person has not committed another sex offense (as
- 22 defined in IC 11-8-8-5.2) (including a delinquent act that
- 23 would be a sex offense if committed by an adult) against any
- 24 other person;
- 25 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
- 26 with a deadly weapon;
- 27 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 28 injury;
- 29 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
- 30 or with a deadly weapon;
- 31 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
- 32 weapon;
- 33 (M) escape (IC 35-44-3-5) with a deadly weapon;
- 34 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 35 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the
- 36 court finds the person possessed a firearm (as defined in
- 37 IC 35-47-1-5) at the time of the offense, or the person
- 38 delivered or intended to deliver to a person under eighteen
- 39 (18) years of age at least three (3) years junior to the person
- 40 and was on a school bus or within one thousand (1,000) feet
- 41 of:
- 42 (i) school property;

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- 1 (ii) a public park;
 2 (iii) a family housing complex; or
 3 (iv) a youth program center;
 4 (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court
 5 finds the person possessed a firearm (as defined in
 6 IC 35-47-1-5) at the time of the offense, or the person
 7 delivered or intended to deliver the methamphetamine pure or
 8 adulterated to a person under eighteen (18) years of age at
 9 least three (3) years junior to the person and was on a school
 10 bus or within one thousand (1,000) feet of:
 11 (i) school property;
 12 (ii) a public park;
 13 (iii) a family housing complex; or
 14 (iv) a youth program center;
 15 (Q) dealing in a schedule I, II, or III controlled substance
 16 (IC 35-48-4-2) if the court finds the person possessed a firearm
 17 (as defined in IC 35-47-1-5) at the time of the offense, or the
 18 person delivered or intended to deliver to a person under
 19 eighteen (18) years of age at least three (3) years junior to the
 20 person and was on a school bus or within one thousand (1,000)
 21 feet of:
 22 (i) school property;
 23 (ii) a public park;
 24 (iii) a family housing complex; or
 25 (iv) a youth program center;
 26 (R) an offense under IC 9-30-5 (operating a vehicle while
 27 intoxicated) and the person who committed the offense has
 28 accumulated at least two (2) prior unrelated convictions under
 29 IC 9-30-5;
 30 (S) an offense under IC 9-30-5-5(b) (operating a vehicle while
 31 intoxicated causing death);
 32 (T) aggravated battery (IC 35-42-2-1.5); or
 33 (U) disarming a law enforcement officer (IC 35-44-3-3.5).
 34 (c) Except as provided in subsection (e), whenever the court
 35 suspends a sentence for a felony, it shall place the person on probation
 36 under IC 35-38-2 for a fixed period to end not later than the date that
 37 the maximum sentence that may be imposed for the felony will expire.
 38 (d) The minimum sentence for a person convicted of voluntary
 39 manslaughter may not be suspended unless the court finds at the
 40 sentencing hearing that the crime was not committed by means of a
 41 deadly weapon.
 42 (e) Whenever the court suspends that part of the sentence of a sex

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1 or violent offender (as defined in IC 11-8-8-5) that is suspendible under
 2 subsection (b), the court shall place the sex or violent offender on
 3 probation under IC 35-38-2 for not more than ten (10) years.

4 (f) An additional term of imprisonment imposed under
 5 IC 35-50-2-11 may not be suspended.

6 (g) A term of imprisonment imposed under IC 35-47-10-6 or
 7 IC 35-47-10-7 may not be suspended if the commission of the offense
 8 was knowing or intentional.

9 (h) A term of imprisonment imposed for an offense under
 10 IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be
 11 suspended.

12 (i) If a person is:

- 13 (1) convicted of child molesting (IC 35-42-4-3) as a Class A
 14 felony against a victim less than twelve (12) years of age; and
 15 (2) at least twenty-one (21) years of age;

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

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

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

- 27 (1) the offense is a misdemeanor that is enhanced to a felony in
 28 the same proceeding as the habitual offender proceeding solely
 29 because the person had a prior unrelated conviction;
 30 ~~(2) the offense is an offense under IC 9-30-10-16 or~~
 31 ~~IC 9-30-10-17; or~~
 32 ~~(3)~~ (2) all of the following apply:

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

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

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

- 38 (i) dealing in or selling a legend drug under IC 16-42-19-27;
 39 (ii) dealing in cocaine or a narcotic drug (IC 35-48-4-1);
 40 (iii) dealing in a schedule I, II, III controlled substance
 41 (IC 35-48-4-2);
 42 (iv) dealing in a schedule IV controlled substance

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- 1 (IC 35-48-4-3); and
 2 (v) dealing in a schedule V controlled substance
 3 (IC 35-48-4-4);
 4 does not exceed one (1).
- 5 (c) A person has accumulated two (2) prior unrelated felony
 6 convictions for purposes of this section only if:
 7 (1) the second prior unrelated felony conviction was committed
 8 after sentencing for the first prior unrelated felony conviction; and
 9 (2) the offense for which the state seeks to have the person
 10 sentenced as a habitual offender was committed after sentencing
 11 for the second prior unrelated felony conviction.
- 12 (d) A conviction does not count for purposes of this section as a
 13 prior unrelated felony conviction if:
 14 (1) the conviction has been set aside;
 15 (2) the conviction is one for which the person has been pardoned;
 16 or
 17 (3) all of the following apply:
 18 (A) The offense is an offense under IC 16-42-19 or
 19 IC 35-48-4.
 20 (B) The offense is not listed in section 2(b)(4) of this chapter.
 21 (C) The total number of unrelated convictions that the person
 22 has for:
 23 (i) dealing in or selling a legend drug under IC 16-42-19-27;
 24 (ii) dealing in cocaine or a narcotic drug (IC 35-48-4-1);
 25 (iii) dealing in a schedule I, II, III controlled substance
 26 (IC 35-48-4-2);
 27 (iv) dealing in a schedule IV controlled substance
 28 (IC 35-48-4-3); and
 29 (v) dealing in a schedule V controlled substance
 30 (IC 35-48-4-4);
 31 does not exceed one (1).
- 32 (e) The requirements in subsection (b) do not apply to a prior
 33 unrelated felony conviction that is used to support a sentence as a
 34 habitual offender. A prior unrelated felony conviction may be used
 35 under this section to support a sentence as a habitual offender even if
 36 the sentence for the prior unrelated offense was enhanced for any
 37 reason, including an enhancement because the person had been
 38 convicted of another offense. However, a prior unrelated felony
 39 conviction under IC 9-30-10-16, IC 9-30-10-17, IC 9-12-3-1 (repealed),
 40 or IC 9-12-3-2 (repealed) may not be used to support a sentence as a
 41 habitual offender.
- 42 (f) If the person was convicted of the felony in a jury trial, the jury

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

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

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

13 SECTION 55. P.L.182-2009(ss), SECTION 493 IS AMENDED TO
14 READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: SECTION 493.

15 (a) As used in this SECTION, "commission" refers to the criminal code
16 evaluation commission established by subsection (b).

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

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

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

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

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

29 ~~(2) (1) April, May, June, July, August, and September of 2010;~~
30 and

31 ~~(3) (2) June, July, August, and September, and October of 2011.~~

32 ~~(e)~~ (f) The commission consists of seventeen (17) members
33 appointed as follows:

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

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

41 (3) The attorney general or the attorney general's designee.

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

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- 1 commissioner's designee.
- 2 (5) The executive director of the prosecuting attorneys council of
- 3 Indiana or the executive director's designee.
- 4 (6) The executive director of the public defender council of
- 5 Indiana or the executive director's designee.
- 6 (7) The chief justice of the supreme court or the chief justice's
- 7 designee.
- 8 (8) Two (2) judges who exercise criminal jurisdiction, who may
- 9 not be affiliated with the same political party, to be appointed by
- 10 the governor.
- 11 (9) Two (2) professors employed by a law school in Indiana
- 12 whose expertise includes criminal law, to be appointed by the
- 13 governor.
- 14 ~~(f)~~ **(g)** The chairman of the legislative council shall appoint a
- 15 legislative member of the commission to serve as chair of the
- 16 commission. Whenever there is a new chairman of the legislative
- 17 council, the new chairman may remove the chair of the commission
- 18 and appoint another chair.
- 19 ~~(g)~~ **(h)** If a legislative member of the commission ceases to be a
- 20 member of the chamber from which the member was appointed, the
- 21 member also ceases to be a member of the commission.
- 22 ~~(h)~~ **(i)** A legislative member of the commission may be removed at
- 23 any time by the appointing authority who appointed the legislative
- 24 member.
- 25 ~~(i)~~ **(j)** If a vacancy exists on the commission, the appointing
- 26 authority who appointed the former member whose position is vacant
- 27 shall appoint an individual to fill the vacancy.
- 28 ~~(j)~~ **(k)** The commission shall submit a final report of the results of
- 29 its study to the legislative council before November 1, 2011. The report
- 30 must be in an electronic format under IC 5-14-6.
- 31 ~~(k)~~ **(l)** The Indiana criminal justice institute shall provide staff
- 32 support to the commission to prepare:
- 33 (1) minutes of each meeting; and
- 34 (2) the final report.
- 35 ~~(l)~~ **(m)** The legislative services agency shall provide staff support to
- 36 the commission to:
- 37 (1) advise the commission on legal matters, criminal procedures,
- 38 and legal research; and
- 39 (2) draft potential legislation.
- 40 ~~(m)~~ **(n)** Each member of the commission is entitled to receive the
- 41 same per diem, mileage, and travel allowances paid to individuals who
- 42 serve as legislative and lay members, respectively, of interim study

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1 committees established by the legislative council.
 2 ~~(n)~~ (o) The affirmative votes of a majority of all the members who
 3 serve on the commission are required for the commission to take action
 4 on any measure, including the final report.
 5 ~~(o)~~ (p) Except as otherwise specifically provided by this SECTION,
 6 the commission shall operate under the rules of the legislative council.
 7 All funds necessary to carry out this SECTION shall be paid from
 8 appropriations to the legislative council and the legislative services
 9 agency.
 10 ~~(p)~~ (q) This SECTION expires December 31, 2011.
 11 SECTION 56. THE FOLLOWING ARE REPEALED [EFFECTIVE
 12 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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