



February 16, 2011

# SENATE BILL No. 561

DIGEST OF SB 561 (Updated February 14, 2011 9:40 pm - DI 106)

**Citations Affected:** IC 4-13.1; IC 10-13; IC 11-8; IC 11-10; IC 11-12; IC 11-13; IC 11-14; IC 33-24; IC 33-37; IC 34-30; IC 35-32; IC 35-33; IC 35-34; IC 35-38; IC 35-41; IC 35-43; IC 35-48; IC 35-50; IC 36-2; noncode.

**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  
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**Effective:** June 30, 2011; July 1, 2011.

**Steele, Bray, Hume, Head, Taylor,  
Charbonneau**

January 20, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.  
February 15, 2011, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations pursuant to Senate Rule 68(b).

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probation improvement fund administered by the department of correction to award grants based on a recommendation by the judicial 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 charged with or convicted of a crime 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 charged with or convicted of a crime. 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 charged with or convicted of a crime. 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 charged with or convicted of a crime. 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 charged with or convicted of a crime. 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. Makes certain changes to drug offenses. Makes an appropriation. Repeals auto theft (same offense as theft) and terroristic deception (consolidated in other provisions). Permits the amendment of a habitual offender charging information at any time if the defendant's rights are not harmed. Authorizes a law enforcement officer to arrest a person who has committed theft, even if the theft is not committed in the officer's presence. Requires a sentencing court to inform the department of correction if a person is a credit restricted felon, and makes a person who commits additional offenses a credit restricted felon. Requires a court to order the expungement of a

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person's arrest record if the person is acquitted. Permits a person who has committed a non-violent misdemeanor or Class D felony to have disclosure of the conviction restricted to criminal justice agencies if the person does not committed an additional felony for eight years. Provides that a person commits burglary if the person breaks and enters with the intent to commit theft. Requires the Indiana office of technology to annually certify that certain programs operated by the judicial technology and automation project are sharing information with independent vendors, and makes the disbursement of certain funds contingent upon this certification. Provides that certain funds from pretrial diversion or deferral fees may only be used to fund GPS monitoring programs. Recommends that the criminal law and sentencing policy study committee study development of a criminal information package. (The introduced version of this bill was prepared by the criminal code evaluation commission.)

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February 16, 2011

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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## SENATE BILL No. 561



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

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

- 1 SECTION 1. IC 4-13.1-2-2, AS AMENDED BY P.L.2-2007,
- 2 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2011]: Sec. 2. (a) The office shall do the following:
- 4 (1) Develop and maintain overall strategy and architecture for the
- 5 use of information technology in state government.
- 6 (2) Review state agency budget requests and proposed contracts
- 7 relating to information technology at the request of the budget
- 8 agency.
- 9 (3) Coordinate state information technology master planning.
- 10 (4) Maintain an inventory of significant information technology
- 11 resources and expenditures.
- 12 (5) Manage a computer gateway to carry out or facilitate public,
- 13 educational, and governmental functions.
- 14 (6) Provide technical staff support services for state agencies.
- 15 (7) Provide services that may be requested by the following:

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- 1 (A) The judicial department of state government.
- 2 (B) The legislative department of state government.
- 3 (C) A state educational institution.
- 4 (D) A political subdivision (as defined in IC 36-1-2-13).
- 5 (E) A body corporate and politic created by statute.
- 6 (F) An entity created by the state.
- 7 (8) Monitor trends and advances in information technology.
- 8 (9) Review projects, architecture, security, staffing, and
- 9 expenditures.
- 10 (10) Develop and maintain policies, procedures, and guidelines
- 11 for the effective and secure use of information technology in state
- 12 government.
- 13 (11) Advise the state personnel department on guidelines for
- 14 information technology staff for state agencies.
- 15 (12) Conduct periodic management reviews of information
- 16 technology activities within state agencies upon request.
- 17 (13) Seek funding for technology services from the following:
- 18 (A) Grants.
- 19 (B) Federal sources.
- 20 (C) Gifts, donations, and bequests.
- 21 (D) Partnerships with other governmental entities or the
- 22 private sector.
- 23 (E) Appropriations.
- 24 (F) Any other source of funds.
- 25 **(14) Certify, before July 1 of each year, that any technology**
- 26 **services program funded by the judicial technology and**
- 27 **automation project fund established by IC 33-24-6-12:**
- 28 **(A) shares and exchanges all information with any**
- 29 **independent provider of technology services;**
- 30 **(B) charges a fee that is reasonable by industry standards**
- 31 **for the sharing of bulk information; and**
- 32 **(C) complies with IC 33-24-6-3(a)(7) and IC 33-24-6-3(b).**
- 33 ~~(14)~~ **(15) Perform other information technology related functions**
- 34 **and duties as directed by the governor.**
- 35 (b) The office may adopt rules under IC 4-22-2 that are necessary
- 36 or appropriate in carrying out its powers and duties.
- 37 SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.44-2009,
- 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 39 JULY 1, 2011]: Sec. 27. (a) Except as provided in subsection (b) **or (c)**,
- 40 on request, a law enforcement agency shall release a limited criminal
- 41 history to or allow inspection of a limited criminal history by
- 42 noncriminal justice organizations or individuals only if the subject of

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- 1 the request:
- 2 (1) has applied for employment with a noncriminal justice
- 3 organization or individual;
- 4 (2) has applied for a license and has provided criminal history
- 5 data as required by law to be provided in connection with the
- 6 license;
- 7 (3) is a candidate for public office or a public official;
- 8 (4) is in the process of being apprehended by a law enforcement
- 9 agency;
- 10 (5) is placed under arrest for the alleged commission of a crime;
- 11 (6) has charged that the subject's rights have been abused
- 12 repeatedly by criminal justice agencies;
- 13 (7) is the subject of a judicial decision or determination with
- 14 respect to the setting of bond, plea bargaining, sentencing, or
- 15 probation;
- 16 (8) has volunteered services that involve contact with, care of, or
- 17 supervision over a child who is being placed, matched, or
- 18 monitored by a social services agency or a nonprofit corporation;
- 19 (9) is currently residing in a location designated by the
- 20 department of child services (established by IC 31-25-1-1) or by
- 21 a juvenile court as the out-of-home placement for a child at the
- 22 time the child will reside in the location;
- 23 (10) has volunteered services at a public school (as defined in
- 24 IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12)
- 25 that involve contact with, care of, or supervision over a student
- 26 enrolled in the school;
- 27 (11) is being investigated for welfare fraud by an investigator of
- 28 the division of family resources or a county office of the division
- 29 of family resources;
- 30 (12) is being sought by the parent locator service of the child
- 31 support bureau of the department of child services;
- 32 (13) is or was required to register as a sex or violent offender
- 33 under IC 11-8-8; or
- 34 (14) has been convicted of any of the following:
- 35 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen
- 36 (18) years of age.
- 37 (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is
- 38 less than eighteen (18) years of age.
- 39 (C) Child molesting (IC 35-42-4-3).
- 40 (D) Child exploitation (IC 35-42-4-4(b)).
- 41 (E) Possession of child pornography (IC 35-42-4-4(c)).
- 42 (F) Vicarious sexual gratification (IC 35-42-4-5).

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- 1 (G) Child solicitation (IC 35-42-4-6).
- 2 (H) Child seduction (IC 35-42-4-7).
- 3 (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- 4 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen
- 5 (18) years of age.

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

10 (b) A law enforcement agency shall allow inspection of a limited  
 11 criminal history by and release a limited criminal history to the  
 12 following noncriminal justice organizations:

- 13 (1) Federally chartered or insured banking institutions.
- 14 (2) Officials of state and local government for any of the
- 15 following purposes:
  - 16 (A) Employment with a state or local governmental entity.
  - 17 (B) Licensing.
- 18 (3) Segments of the securities industry identified under 15 U.S.C.
- 19 78q(f)(2).

20 (c) **A law enforcement agency may not release a person's limited**  
 21 **criminal history information to a noncriminal justice organization**  
 22 **or an individual if a court has issued an order restricting disclosure**  
 23 **of the person's arrest records under IC 35-38-5-5.5.**

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

27 SECTION 3. IC 11-8-1-3.1 IS ADDED TO THE INDIANA CODE  
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 29 1, 2011]: **Sec. 3.1. "Average daily marginal cost of incarcerating an**  
 30 **offender" means the average daily cost to the department to**  
 31 **commit one (1) additional offender to the department without**  
 32 **building additional beds as determined under IC 11-10-13-1(b).**

33 SECTION 4. IC 11-8-1-5.6 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 5.6. "Community**  
 35 **transition program commencement date" means the following:**

- 36 (1) Not earlier than sixty (60) days and not later than thirty (30)
- 37 days before an offender's expected release date, if the most
- 38 serious offense for which the person is committed is a Class D
- 39 felony.
- 40 (2) Not earlier than ninety (90) days and not later than thirty (30)
- 41 days before an offender's expected release date, if the most
- 42 serious offense for which the person is committed is a Class C

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1 felony and subdivision (3) does not apply.  
 2 (3) Not earlier than one hundred twenty (120) days and not later  
 3 than thirty (30) days before an offender's expected release date, if:  
 4 (A) the most serious offense for which the person is committed  
 5 is a Class C felony;  
 6 (B) all of the offenses for which the person was concurrently  
 7 or consecutively sentenced are offenses under IC 16-42-19 or  
 8 IC 35-48-4; and  
 9 (C) none of the offenses for which the person was concurrently  
 10 or consecutively sentenced are listed in ~~IC 35-50-2-2(b)(4)~~.  
 11 **IC 35-50-2-2(b)(3).**  
 12 (4) Not earlier than one hundred twenty (120) days and not later  
 13 than thirty (30) days before an offender's expected release date, if  
 14 the most serious offense for which the person is committed is a  
 15 Class A or Class B felony and subdivision (5) does not apply.  
 16 (5) Not earlier than one hundred eighty (180) days and not later  
 17 than thirty (30) days before an offender's expected release date, if:  
 18 (A) the most serious offense for which the person is committed  
 19 is a Class A or Class B felony;  
 20 (B) all of the offenses for which the person was concurrently  
 21 or consecutively sentenced are offenses under IC 16-42-19 or  
 22 IC 35-48-4; and  
 23 (C) none of the offenses for which the person was concurrently  
 24 or consecutively sentenced are listed in ~~IC 35-50-2-2(b)(4)~~.  
 25 **IC 35-50-2-2(b)(3).**  
 26 SECTION 5. IC 11-8-8-21, AS ADDED BY P.L.216-2007,  
 27 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2011]: Sec. 21. (a) The state sex and violent offender  
 29 administration fund is established to assist the department in carrying  
 30 out its duties under:  
 31 (1) IC 11-8-2-12.4 concerning the Indiana sex and violent  
 32 offender registry; **and**  
 33 (2) **IC 11-13-3-4 concerning GPS monitoring of sexually**  
 34 **violent predators and sex and violent offenders.**  
 35 The fund shall be administered by the department.  
 36 (b) The expenses of administering the fund shall be paid from  
 37 money in the fund.  
 38 (c) The fund consists of:  
 39 (1) grants;  
 40 (2) donations;  
 41 (3) appropriations;  
 42 (4) money from the annual sex or violent offender registration fee

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1 (IC 36-2-13-5.6(a)(1)(A)); ~~and~~  
 2 (5) money from the sex or violent offender address change fee  
 3 (IC 36-2-13-5.6(a)(1)(B));  
 4 **(6) money from pretrial diversion fees (IC 33-37-4-1(d)); and**  
 5 **(7) money from deferral fees (IC 33-37-4-2(c)).**

6 (d) The treasurer of state shall invest the money in the fund not  
 7 currently needed to meet the obligations of the fund in the same  
 8 manner as other public money may be invested.

9 (e) Money in the fund is continually appropriated to carry out the  
 10 purposes of the fund. **However, money from pretrial diversion fees**  
 11 **and deferral fees may be used only for GPS monitoring of sexually**  
 12 **violent predators and sex and violent offenders.**

13 SECTION 6. IC 11-10-13-1 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. **(a)** The department  
 15 shall develop a methodology for determining the average daily cost of  
 16 incarcerating an offender.

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

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

24 SECTION 7. IC 11-10-16 IS ADDED TO THE INDIANA CODE  
 25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2011]:

27 **Chapter 16. County Incentives for Class D Felony Offenders**

28 **Sec. 1. The department shall administer a local rehabilitation**  
 29 **incentive and disincentive program for counties to reduce the**  
 30 **number of Class D felony offenders committed to the department.**

31 **Sec. 2. (a) The department shall establish a baseline average**  
 32 **number of Class D felony offenders that each county commits**  
 33 **annually to the department based on the 2007, 2008, 2009, and**  
 34 **2010 calendar years.**

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

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

41 **STEP ONE: Subtract the number of Class D felony offenders**  
 42 **a county commits to the department in a calendar year from**

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1 the baseline average for that county described in subsection  
 2 (a).  
 3 **STEP TWO: Multiply the number of offenders determined**  
 4 **under STEP ONE by the average number of days of the**  
 5 **length of stay for a Class D felony offender in the department**  
 6 **as determined under IC 11-10-13-1(c).**  
 7 **STEP THREE: Multiply the amount determined under STEP**  
 8 **TWO by the average daily marginal cost of incarcerating an**  
 9 **offender determined under IC 11-10-13-1(b).**  
 10 **STEP FOUR: Multiply the amount determined under STEP**  
 11 **THREE by fifty percent (50%).**  
 12 **(d) The department shall not consider a Class D felony offender**  
 13 **whose:**  
 14 **(1) probation has been revoked;**  
 15 **(2) participation in a community corrections program has**  
 16 **been terminated as a result of a violation of program**  
 17 **requirements; or**  
 18 **(3) participation in a problem solving court has been**  
 19 **terminated as a result of a violation of program requirements;**  
 20 **in the calculations under this chapter.**  
 21 **Sec. 3. (a) The local rehabilitation incentive described in section**  
 22 **2 of this chapter shall be distributed to a county's fiscal body,**  
 23 **which shall redistribute the incentive to:**  
 24 **(1) programs that defray the expense of housing an offender**  
 25 **in jail;**  
 26 **(2) probation programs;**  
 27 **(3) work release programs;**  
 28 **(4) community corrections programs; or**  
 29 **(5) problem solving courts.**  
 30 **The fiscal body shall give first priority to programs that defray the**  
 31 **expense of housing an offender in jail, second priority to probation**  
 32 **and community corrections programs, and third priority to**  
 33 **problem solving courts and work release programs.**  
 34 **(b) If a county has a local community corrections advisory**  
 35 **board, the local community corrections advisory board shall make**  
 36 **a recommendation to the county's fiscal body regarding how local**  
 37 **rehabilitation incentive funds should be distributed.**  
 38 **Sec. 4. (a) The department shall create a disincentive to each**  
 39 **county that commits to the department more than ten (10) more**  
 40 **Class D felony offenders than the baseline average established for**  
 41 **that county described in section 2(a) of this chapter in one (1)**  
 42 **calendar year.**

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

STEP ONE: Subtract the baseline average for that county described in section 2(a) of this chapter from the number of Class D felony offenders a county commits to the department in a calendar year.

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

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

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

(c) The department shall not consider a Class D felony offender whose:

- (1) probation has been revoked;
  - (2) participation in a community corrections program has been terminated as a result of a violation of program requirements; or
  - (3) participation in a problem solving court has been terminated as a result of a violation of program requirements;
- in the calculations under this chapter.

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

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

SECTION 8. IC 11-12-1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter may include the following:

- (1) Residential or work release programs.
- (2) House arrest, home detention, and electronic monitoring programs.
- (3) Community restitution or service programs.
- (4) Victim-offender reconciliation programs.
- (5) Jail services programs.
- (6) Jail work crews.
- (7) Community work crews.

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- 1           ~~(8) Juvenile detention alternative programs.~~
- 2           ~~(9) Day reporting programs.~~
- 3           ~~(10) Faith based programs.~~
- 4           ~~(11) Other community corrections programs approved by the~~
- 5           ~~department.~~

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

9           (b) The community corrections board ~~may~~ **shall** also coordinate ~~and~~  
 10          **or** operate educational, mental health, drug or alcohol abuse  
 11          counseling, housing, as a part of any ~~of these~~ programs, ~~or and~~  
 12          supervision services for persons described in section 2 of this chapter.

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

- 21               (1) may not be used by the department for any other purpose; **and**
- 22               (2) **may be used by grant recipients only to provide**
- 23               **community corrections program services for persons who:**
- 24                   (A) **have been convicted of crime; or**
- 25                   (B) **are participating in a presentence community**
- 26                   **corrections program after having been charged with a**
- 27                   **crime.**

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

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

37          SECTION 10. IC 11-12-2-5, AS AMENDED BY P.L.105-2010,  
 38          SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39          JULY 1, 2011]: Sec. 5. (a) The department shall do the following:

- 40               (1) Provide consultation and technical assistance to counties to
- 41               aid in the development of community corrections plans.
- 42               (2) Provide training for community corrections personnel and

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- board members to the extent funds are available.
- (3) Adopt under IC 4-22-2 rules governing application by counties for financial aid under this chapter, including the content of community corrections plans.
- (4) Adopt under IC 4-22-2 rules governing the disbursement of monies to a county and the county's certification of expenditures, **including rules that:**
  - (A) require that any money received from the state to fund a community corrections program may be used only to provide services for persons who:**
    - (i) have been convicted of crime; or**
    - (ii) are participating in a presentence community corrections program after having been charged with a crime; and**
  - (B) require that any user fees collected:**
    - (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 or charged with a crime.**
- (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.

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

5 (b) The commissioner may do the following:

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

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

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

15 (c) Notwithstanding any law prohibiting advance payments, the  
16 department of correction may advance grant money to a county or  
17 group of counties in order to assist a community corrections program.  
18 However, not more than twenty-five percent (25%) of the amount  
19 awarded to a county or group of counties may be paid in advance.

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

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

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

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

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- 1 (1) The maximum amount that a community corrections program
- 2 or a court may assess as a user fee under subsection (b) or
- 3 IC 35-38-2.5-6.
- 4 (2) Administration by community corrections advisory boards of
- 5 community corrections funds and the community corrections
- 6 home detention fund, including criteria for expenditures from the
- 7 funds.
- 8 **(3) A requirement that any user fees collected:**
- 9 **(A) by a community corrections program that is funded in**
- 10 **whole or in part by money received from the state; and**
- 11 **(B) from persons who have been convicted of a felony;**
- 12 **may be used only to provide services to a person who has been**
- 13 **convicted of crime or is participating in a presentence**
- 14 **community corrections program after having been charged**
- 15 **with a crime.**

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

- 19 (1) establish and operate community corrections programs if these
- 20 programs are not being provided at the local level; and
- 21 (2) contract with any public or private agency approved by the
- 22 commissioner, or any combination of those agencies, for the
- 23 provision of community based services to committed persons,
- 24 including the furnishing of custody, supervision, care, training,
- 25 and reintegration.

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

- 28 **(1) shall use services, programs, and practices that reduce**
- 29 **recidivism rates, as demonstrated by scientific research,**
- 30 **among persons who participate in the community corrections**
- 31 **program; and**
- 32 **(2) may provide services only for persons who have been**
- 33 **convicted of a crime or are participating in a presentence**
- 34 **community corrections program after having been charged**
- 35 **with a crime.**

36 SECTION 13. IC 11-12-6-13 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. **Except as**  
 38 **provided in IC 11-10-16-5,** before September 1 of each year after  
 39 1998, the department shall deposit in the misdemeanor fund of each  
 40 county the greatest of the following:

- 41 (1) The sum determined by multiplying the total amount
- 42 appropriated for the county misdemeanor fund by the county's

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- 1 multiplier.
- 2 (2) The minimum allocation amount assigned to the county under
- 3 section 11.1(a) of this chapter.
- 4 (3) After state fiscal year 1999, the amount deposited by the
- 5 department in the misdemeanor fund for the county in state fiscal
- 6 year 1999.

7 SECTION 14. IC 11-12-7-2 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. The fund consists of:

- 9 (1) home detention user fees deposited into the fund under
- 10 IC 35-38-2.5-8;
- 11 (2) home detention supervision grants to the community
- 12 corrections program made by the department under IC 11-12-2-1
- 13 for the purpose of funding supervision of home detention by a
- 14 community corrections program **involving persons who have**
- 15 **been convicted of a crime or are participating in a**
- 16 **presentence community corrections program after having**
- 17 **been charged with a crime;** and
- 18 (3) amounts deposited into the fund under IC 11-12-1-3.

19 SECTION 15. IC 11-12-7-3 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. A community  
 21 corrections program that provides supervision of home detention under  
 22 IC 35-38-2.5-5 shall annually submit a budget of its operating expenses  
 23 for home detention supervision to the fiscal body of the county. Based  
 24 on the budget submitted, the fiscal body of the county shall appropriate  
 25 from the community corrections home detention fund amounts  
 26 necessary to maintain supervision of home detention by the community  
 27 corrections program. **However, any home detention user fees**  
 28 **collected:**

- 29 (1) **by a community corrections program that:**
- 30 (A) **provides supervision of home detention under**
- 31 **IC 35-38-2.5-5; and**
- 32 (B) **is funded in whole or in part by money received from**
- 33 **the state; and**
- 34 (2) **from persons who have been convicted of a felony;**
- 35 **may be used only to provide home detention services for persons**
- 36 **who have been convicted of a crime or are participating in a**
- 37 **presentence community corrections program after having been**
- 38 **charged with a crime.**

39 SECTION 16. IC 11-12-10-2 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. A community  
 41 transition program for a county must provide services that improve an  
 42 offender's chances of making a successful transition from commitment

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1 to employment and participation in the community without the  
2 commission of further crimes. ~~The program may include any of the~~  
3 ~~services described in IC 11-12-1-2.5.~~

4 SECTION 17. IC 11-12-10-4 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The department  
6 shall reimburse communities on a per diem basis for services provided  
7 to persons assigned to a community transition program under  
8 IC 11-10-11.5.

9 (b) The department shall set the per diem rate under this section. In  
10 setting the per diem rate for a community, the department may consider  
11 the direct costs incurred by the community to provide a community  
12 transition program. The per diem may not be less than seven dollars  
13 (\$7).

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

17 (d) Money received by a community under this section:  
18 (1) shall be deposited in the community transition program fund  
19 for the community; **and**  
20 (2) **may be used only to provide services for persons who have**  
21 **been convicted of a felony.**

22 SECTION 18. IC 11-13-1-8, AS AMENDED BY P.L.1-2007,  
23 SECTION 102, IS AMENDED TO READ AS FOLLOWS  
24 [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) As used in this section,  
25 "board" refers to the board of directors of the judicial conference of  
26 Indiana established by IC 33-38-9-3.

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

- 29 (1) educational and occupational qualifications for employment  
30 as a probation officer;
- 31 (2) compensation of probation officers;
- 32 (3) protection of probation records and disclosure of information  
33 contained in those records; ~~and~~
- 34 (4) presentence investigation reports;
- 35 (5) **risk classification for probationers;**
- 36 (6) **supervision levels for probationers based on risk**  
37 **classification;**
- 38 (7) **a schedule of progressive probation incentives and**  
39 **violation sanctions, including judicial review procedures; and**
- 40 (8) **qualifications for probation officers to administer**  
41 **probation violation sanctions under IC 35-38-2-3(e).**

42 (c) The conference shall prepare a written examination to be used

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1 in establishing lists of persons eligible for appointment as probation  
 2 officers. The conference shall prescribe the qualifications for entrance  
 3 to the examination and establish a minimum passing score and rules for  
 4 the administration of the examination after obtaining recommendations  
 5 on these matters from the probation standards and practices advisory  
 6 committee. The examination must be offered at least once every other  
 7 month.

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

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

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

14 (2) the development and use of workload information.

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

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

23 (1) Eligibility standards.

24 (2) Testing requirements and procedures.

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

28 (4) Procedures and requirements for placement in residential  
 29 special education institutions or facilities under IC 20-35-6-2 and  
 30 511 IAC 7-27-12.

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

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

35 (B) coordination with:

36 (i) individual case plans; and

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

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

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IC 31-37.  
Training for probation departments may be provided jointly with training provided to child welfare caseworkers relating to the same subject matter.

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

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

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

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

SECTION 19. IC 11-13-1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 8.5. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established by IC 33-38-9-3.**

**(b) The board shall adopt rules to establish standards of probation supervision of offenders based on validated risk assessment systems, including:**

- (1) classification and reclassification of an offender as low risk, medium risk, or high risk;**
- (2) classification of active and administrative levels of supervision for an offender; and**
- (3) modification of an offender's supervision level.**

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

- (1) An offender classified as a high risk offender shall be placed on active supervision during the offender's entire period of probation.**
- (2) An offender classified as a low risk or medium risk offender who is on probation for committing a misdemeanor shall be placed on:**
  - (A) active supervision for the first nine (9) months of the**

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1           offender's probationary period; and  
2           **(B) administrative supervision after the first nine (9)**  
3           **months of the offender's probationary period if the**  
4           **offender has not been arrested during the probationary**  
5           **period or violated a condition of the offender's probation.**  
6           **(3) An offender classified as a low risk or medium risk**  
7           **offender who is on probation for committing a felony shall be**  
8           **placed on:**  
9           **(A) active supervision for the first twelve (12) months of**  
10           **the offender's probationary period; and**  
11           **(B) administrative supervision after the offender has**  
12           **completed active supervision if the offender has not been**  
13           **arrested for a new crime or violated a condition of**  
14           **probation during the period of active supervision.**  
15           **(d) If an order issued by the court that placed an offender on**  
16           **probation conflicts with the conditions of probation required by**  
17           **the level of supervision the offender is placed on under this section,**  
18           **the court order supersedes the conditions of probation.**  
19           SECTION 20. IC 11-13-2-1 IS AMENDED TO READ AS  
20           FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. There is established  
21           a program of state financial aid to be used for the support of court  
22           probation services **to felons and high risk offenders**. The financial aid  
23           program shall be administered by the judicial conference of Indiana.  
24           Funds appropriated to the conference for purposes of this chapter shall  
25           be distributed by the conference upon approval of the state budget  
26           committee.  
27           SECTION 21. IC 11-13-2-2 IS AMENDED TO READ AS  
28           FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. **(a) Except as**  
29           **provided in subsection (b),** funds appropriated under this program  
30           may be made available to any court administering probation services  
31           **to felons and high risk offenders** in order to finance expenditures  
32           incurred for ~~either~~ of the following purposes:  
33           (1) Salaries for existing or new probation officer positions.  
34           (2) Maintenance or establishment of administrative support  
35           services to probation officers.  
36           **(3) Development and use of a progressive sanctions policy for**  
37           **violations of probation conditions.**  
38           **(4) Development and use of evidence based supervision**  
39           **practices and programs to reduce the risk of further offense.**  
40           **(5) Establishment of a policy to improve the efficiency and**  
41           **coordination of offender services provided by supervision**  
42           **agencies within a county to ensure that an offender is**

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1 supervised by only one (1) offender supervision agency.  
 2 (b) Funds appropriated under this program may not be made  
 3 available after July 1 of each year unless the Indiana office of  
 4 technology has certified under IC 4-13.1-2-2 that the judicial  
 5 technology and automation project is sharing information with  
 6 independent providers.

7 SECTION 22. IC 11-13-2-3 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) State financial  
 9 aid for support of probation services to felons and high risk offenders  
 10 may be made only to courts meeting the minimum standards adopted  
 11 by the judicial conference of Indiana. and may not exceed fifty percent  
 12 (50%) of the cost of the positions or services being financed. Any court  
 13 having probation jurisdiction may apply for financial assistance under  
 14 this chapter by submitting an application to the conference for review.  
 15 The application shall be accompanied by detailed plans regarding the  
 16 use of the financial aid.

17 (b) The conference may recommend changes or modifications  
 18 necessary to effect compliance with the minimum standards. The  
 19 conference and the state budget committee department must approve  
 20 all financial aid granted under this chapter. Any court receiving  
 21 financial assistance under this chapter may be declared ineligible to  
 22 receive that assistance if the court fails to maintain the minimum  
 23 standards.

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

26 SECTION 23. IC 11-13-2-4 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. At the end of each  
 28 quarter of the fiscal year, courts receiving financial aid under this  
 29 chapter shall submit to the judicial conference of Indiana a verified  
 30 accounting of all amounts expended in providing probation services to  
 31 felons and high risk offenders. The accounting must designate those  
 32 items for which reimbursement is claimed and shall be presented  
 33 together with a claim for reimbursement. If the accounting and claim  
 34 are approved by the conference, and the state budget agency, the  
 35 conference shall submit it to the state auditor of state for payment.

36 SECTION 24. IC 11-13-2.5 IS ADDED TO THE INDIANA CODE  
 37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2011]:

39 **Chapter 2.5. Probation Improvement Fund**

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

42 **Sec. 2. (a) The probation improvement fund is established to**

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1 provide grants under sections 3 and 4 of this chapter. The fund  
2 shall be administered by the department.

- 3 (b) Sources of money for the fund consist of the following:
- 4 (1) Appropriations from the general assembly.
- 5 (2) Donations, gifts, and money received from any other
- 6 source, including transfers from other funds or accounts.

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

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

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

15 (f) Except as provided in subsection (g), money in the fund is  
16 appropriated continuously for the purposes stated in sections 3 and  
17 4 of this chapter.

- 18 (g) Money in the fund may not be disbursed:
- 19 (1) after July 1 of each year unless the Indiana office of
- 20 technology has certified under IC 4-13.1-2-2 that the judicial
- 21 technology and automation project is sharing information
- 22 with independent providers; or
- 23 (2) in a county that does not contain a community corrections
- 24 advisory board.

25 Sec. 3. (a) In consultation with the judicial conference of  
26 Indiana, the department may award a grant from the fund to a  
27 county probation department that supervises persons who have  
28 been convicted of a felony to:

- 29 (1) promote the county probation department's adoption of
- 30 best practices:
- 31 (A) to:
- 32 (i) focus supervision resources on persons who pose a
- 33 high likelihood of committing another offense, as
- 34 determined by a validated risk assessment;
- 35 (ii) develop and use a progressive sanctions policy to
- 36 guide decisions concerning how to respond to violations
- 37 of conditions of supervision; and
- 38 (iii) reduce the risk posed by persons who have been
- 39 charged with or convicted of a felony and are under
- 40 court supervision through effective supervision,
- 41 sanctions, and addressing any needs the persons have for
- 42 substance abuse treatment, mental health services, or

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1           other services; and  
2           **(B) as approved by the department; and**  
3           **(2) reduce the number of probation revocations:**  
4           **(A) involving persons under the supervision of the county**  
5           **probation department who have been charged with or**  
6           **convicted of a felony; and**  
7           **(B) that result in a person serving a prison sentence.**  
8           **(b) To receive a grant under this section, a county probation**  
9           **department must submit an application to the department:**  
10           **(1) on a form; and**  
11           **(2) in the manner;**  
12           **prescribed by the department.**  
13           **(c) The department shall determine the amount of a grant**  
14           **awarded under this section.**  
15           **Sec. 4. (a) The department:**  
16           **(1) may award a grant from the fund to a county that**  
17           **supervises persons who have been convicted of a felony to**  
18           **consolidate and improve the efficiency of:**  
19           **(A) probation administration and services; and**  
20           **(B) community corrections programs;**  
21           **in the county; and**  
22           **(2) shall make the awarding of the grant contingent on the**  
23           **ability of the county probation department to demonstrate a**  
24           **minimal level of coordination with other offender supervision**  
25           **agencies operating in the same county, including community**  
26           **corrections programs, parole authorities, and other probation**  
27           **agencies.**  
28           **(b) To receive a grant under this section, a county must submit**  
29           **an application to the department:**  
30           **(1) on a form; and**  
31           **(2) in the manner;**  
32           **prescribed by the department.**  
33           **(c) The department shall determine the amount of a grant**  
34           **awarded under this section.**  
35           **Sec. 5. The department shall adopt rules under IC 4-22-2 that**  
36           **are necessary to implement this chapter.**  
37           SECTION 25. IC 11-13-2.7 IS ADDED TO THE INDIANA CODE  
38           AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
39           JULY 1, 2011]:  
40           **Chapter 2.7. Substance Abuse Treatment Fund**  
41           **Sec. 1. As used in this chapter, "fund" refers to the substance**  
42           **abuse treatment fund established by section 2 of this chapter.**

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

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

5               **(1) Appropriations from the general assembly.**

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

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

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

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

16           **(f) Except as provided in subsection (g), money in the fund is**  
 17 **appropriated continuously for the purposes stated in section 3 of**  
 18 **this chapter.**

19           **(g) Money in the fund may not be disbursed:**

20               **(1) after July 1 of each year unless the Indiana office of**  
 21 **technology has certified under IC 4-13.1-2-2 that the judicial**  
 22 **technology and automation project is sharing information**  
 23 **with independent providers; or**

24               **(2) in a county that does not contain a community corrections**  
 25 **advisory board.**

26           **Sec. 3. (a) The department may, in consultation with the Indiana**  
 27 **judicial center and the division of mental health and addiction,**  
 28 **award a grant from the fund to a probation department to increase**  
 29 **substance abuse treatment access for persons on probation who are**  
 30 **under court supervision and have been diagnosed with a substance**  
 31 **abuse disorder or co-occurring disorder.**

32           **(b) To receive a grant under this section, a probation**  
 33 **department and the agency that will be providing treatment if the**  
 34 **grant is approved must submit an application to the department:**

35               **(1) on a form; and**

36               **(2) in the manner;**

37 **prescribed by the department.**

38           **(c) The department shall determine the amount of a grant**  
 39 **awarded under this section in consultation with the Indiana**  
 40 **judicial center and the division of mental health and addiction.**

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

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1 SECTION 26. IC 11-13-3-6 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. **(a) This section**  
3 **applies to all persons sentenced for a conviction before July 1,**  
4 **2011.**

5 ~~(a)~~ **(b)** The department shall supervise and assist persons on parole.  
6 Its duties in this regard include:

- 7 (1) establishing methods and procedures for parole
- 8 administration, including investigation, supervision, workloads,
- 9 record keeping, and reporting;
- 10 (2) providing information to and otherwise assisting the parole
- 11 board in making parole decisions;
- 12 (3) assisting persons in preparing parole release plans;
- 13 (4) providing employment counseling and assistance in job and
- 14 residential placement;
- 15 (5) providing family and individual counseling and treatment
- 16 placement;
- 17 (6) providing financial counseling;
- 18 (7) providing vocational and educational counseling placement;
- 19 (8) supervising and assisting out of state parolees accepted under
- 20 an interstate compact;
- 21 (9) assisting the parole board in transferring supervision of a
- 22 parolee to another jurisdiction;
- 23 (10) notifying the parole board of any modification in the
- 24 conditions of parole considered advisable;
- 25 (11) notifying the parole board when a violation of parole occurs;
- 26 and
- 27 (12) cooperating with public and private agencies and with
- 28 individual citizens concerned with the treatment or welfare of
- 29 parolees, and assisting the parolee in obtaining services from
- 30 those agencies and citizens.

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

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

37 SECTION 27. IC 11-13-3-6.1 IS ADDED TO THE INDIANA  
38 CODE AS A NEW SECTION TO READ AS FOLLOWS  
39 [EFFECTIVE JULY 1, 2011]: Sec. 6.1. **(a) This section applies to all**  
40 **persons sentenced for a conviction after June 30, 2011.**

41 **(b) The department:**

42 **(1) shall:**

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1           (A) supervise parolees who were sentenced by a court in  
2           Indiana for:  
3           (i) murder;  
4           (ii) a Class A felony; or  
5           (iii) a sex offense under IC 35-42-4 or incest under  
6           IC 35-46-1-3; and  
7           (B) assist all parolees sentenced by a court in Indiana; and  
8           (2) shall supervise and assist out-of-state parolees accepted  
9           under an interstate compact as required by the interstate  
10          compact.  
11         (c) The department's duties under subsection (b) include:  
12           (1) establishing methods and procedures for parole  
13           administration, including investigation, supervision,  
14           workloads, record keeping, and reporting;  
15           (2) providing information to and otherwise assisting the  
16           parole board in making parole decisions;  
17           (3) assisting persons in preparing parole release plans;  
18           (4) providing employment counseling and assistance in job  
19           and residential placement;  
20           (5) providing family and individual counseling and treatment  
21           placement;  
22           (6) providing financial counseling;  
23           (7) providing vocational and educational counseling  
24           placement;  
25           (8) assisting the parole board in transferring supervision of a  
26           parolee to another jurisdiction;  
27           (9) notifying the parole board of any modification in the  
28           conditions of parole considered advisable;  
29           (10) notifying the parole board when a violation of parole  
30           occurs; and  
31           (11) cooperating with public and private agencies and with  
32           individual citizens concerned with the treatment or welfare of  
33           parolees, and assisting the parolee in obtaining services from  
34           those agencies and citizens.  
35         (d) Courts, probation officers, and other public officials shall  
36         cooperate with the department in obtaining information relating  
37         to persons committed to the department.  
38         (e) The department shall cause the name of any person released  
39         on parole to be entered into the Indiana data communications  
40         system (IDACS).  
41         SECTION 28. IC 11-14-1-5 IS AMENDED TO READ AS  
42         FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. "Youthful offender"

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1 means an offender (as defined in IC 11-8-1-9) who:

- 2 (1) is less than twenty-one (21) years of age;
- 3 (2) has been committed to the department to serve a maximum
- 4 sentence of not more than eight (8) years;
- 5 (3) has received a suspendible sentence under IC 35-50-2-2; ~~or~~
- 6 ~~IC 35-50-2-2.1;~~
- 7 (4) has been sentenced by a court having criminal jurisdiction;
- 8 (5) has never been confined in a state or federal adult correctional
- 9 facility; and
- 10 (6) has not previously participated in a military or correctional
- 11 boot camp program.

12 SECTION 29. IC 33-24-6-3, AS AMENDED BY P.L.1-2010,  
13 SECTION 132, IS AMENDED TO READ AS FOLLOWS  
14 [EFFECTIVE JUNE 30, 2011]: Sec. 3. (a) The division of state court  
15 administration shall do the following:

- 16 (1) Examine the administrative and business methods and systems  
17 employed in the offices of the clerks of court and other offices  
18 related to and serving the courts and make recommendations for  
19 necessary improvement.
- 20 (2) Collect and compile statistical data and other information on  
21 the judicial work of the courts in Indiana. All justices of the  
22 supreme court, judges of the court of appeals, judges of all trial  
23 courts, and any city or town courts, whether having general or  
24 special jurisdiction, court clerks, court reporters, and other  
25 officers and employees of the courts shall, upon notice by the  
26 executive director and in compliance with procedures prescribed  
27 by the executive director, furnish the executive director the  
28 information as is requested concerning the nature and volume of  
29 judicial business. The information must include the following:
- 30 (A) The volume, condition, and type of business conducted by  
31 the courts.
- 32 (B) The methods of procedure in the courts.
- 33 (C) The work accomplished by the courts.
- 34 (D) The receipt and expenditure of public money by and for  
35 the operation of the courts.
- 36 (E) The methods of disposition or termination of cases.
- 37 (3) Prepare and publish reports, not less than one (1) or more than  
38 two (2) times per year, on the nature and volume of judicial work  
39 performed by the courts as determined by the information  
40 required in subdivision (2).
- 41 (4) Serve the judicial nominating commission and the judicial  
42 qualifications commission in the performance by the commissions

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of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

(7) **Before July 1, 2011**, develop a standard protocol for the ~~exchange~~ **sharing and exchanging** of information: ~~by not later than December 31, 2009:~~

- (A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;
- (B) at the option of the county prosecuting attorney, for:
  - (i) a prosecuting attorney's case management system;
  - (ii) a county court case management system; and
  - (iii) a county court case management system developed and operated by the division of state court administration;
 to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and
- (C) between county court case management systems and the case management system developed and operated by the division of state court administration.

(8) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.

**(b) The division of state court administration shall not:**

- (1) deny a person access to any public records that the division maintains or keeps, including public records that are maintained or kept as part of the judicial technology and automation project; or**
- (2) adopt a rule that limits public access or imposes any restriction on public records that are maintained by the county clerk.**

~~(b)~~ **(c)** All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

~~(c)~~ **(d)** The division may adopt rules to implement this section.

SECTION 30. IC 33-37-4-1, AS AMENDED BY P.L.182-2009(ss), SECTION 392, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

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1 (b) In addition to the criminal costs fee collected under this section,  
 2 the clerk shall collect from the defendant the following fees if they are  
 3 required under IC 33-37-5:

4 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or  
 5 IC 33-37-5-4).

6 (2) A marijuana eradication program fee (IC 33-37-5-7).

7 (3) An alcohol and drug services program user fee  
 8 (IC 33-37-5-8(b)).

9 (4) A law enforcement continuing education program fee  
 10 (IC 33-37-5-8(c)).

11 (5) A drug abuse, prosecution, interdiction, and correction fee  
 12 (IC 33-37-5-9).

13 (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

14 (7) A child abuse prevention fee (IC 33-37-5-12).

15 (8) A domestic violence prevention and treatment fee  
 16 (IC 33-37-5-13).

17 (9) A highway work zone fee (IC 33-37-5-14).

18 (10) A deferred prosecution fee (~~IC 33-37-5-17~~;  
 19 **IC 33-37-5-17(b)**).

20 (11) A document storage fee (IC 33-37-5-20).

21 (12) An automated record keeping fee (IC 33-37-5-21).

22 (13) A late payment fee (IC 33-37-5-22).

23 (14) A sexual assault victims assistance fee (IC 33-37-5-23).

24 (15) A public defense administration fee (IC 33-37-5-21.2).

25 (16) A judicial insurance adjustment fee (IC 33-37-5-25).

26 (17) A judicial salaries fee (IC 33-37-5-26).

27 (18) A court administration fee (IC 33-37-5-27).

28 (19) A DNA sample processing fee (IC 33-37-5-26.2).

29 (c) Instead of the criminal costs fee prescribed by this section,  
 30 except for the automated record keeping fee (IC 33-37-5-21), the clerk  
 31 shall collect a pretrial diversion program fee if an agreement between  
 32 the prosecuting attorney and the accused person entered into under  
 33 IC 33-39-1-8 requires payment of those fees by the accused person.  
 34 The pretrial diversion program fee is:

35 (1) an initial user's fee of fifty dollars (\$50); and

36 (2) a monthly user's fee of ten dollars (\$10) for each month that  
 37 the person remains in the pretrial diversion program.

38 **In addition to the pretrial diversion program fee, the clerk shall**  
 39 **collect a county offender diversion fee of thirty dollars (\$30).**

40 (d) The clerk shall transfer to the county auditor or city or town  
 41 fiscal officer the following fees, not later than thirty (30) days after the  
 42 fees are collected:

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- 1           (1) ~~the~~ **Forty-eight dollars (\$48) of each** pretrial diversion **initial**
- 2           **user fee.**
- 3           **(2) The pretrial diversion monthly user fee.**
- 4           ~~(2)~~ **(3)** The marijuana eradication program fee.
- 5           ~~(3)~~ **(4)** The alcohol and drug services program user fee.
- 6           ~~(4)~~ **(5)** The law enforcement continuing education program fee.

7           The auditor or fiscal officer shall deposit fees transferred under this  
 8           subsection in the appropriate user fee fund established under  
 9           IC 33-37-8.

10           **(e) The clerk shall transfer to the auditor of state, not later than**  
 11           **thirty (30) days after the fees are collected, two dollars (\$2) of each**  
 12           **pretrial diversion initial user fee. The auditor of state shall deposit:**

- 13           **(1) one dollar (\$1) in the public defense fund established by**
- 14           **IC 33-40-6-1; and**
- 15           **(2) one dollar (\$1) in the state sex and violent offender**
- 16           **administration fund established by IC 11-8-8-21.**

17           ~~(e)~~ **(f)** Unless otherwise directed by a court, if a clerk collects only  
 18           part of a criminal costs fee from a defendant under this section, the  
 19           clerk shall distribute the partial payment of the criminal costs fee as  
 20           follows:

- 21           (1) The clerk shall apply the partial payment to general court  
 22           costs.
- 23           (2) If there is money remaining after the partial payment is  
 24           applied to general court costs under subdivision (1), the clerk  
 25           shall distribute the remainder of the partial payment for deposit in  
 26           the appropriate county user fee fund.
- 27           (3) If there is money remaining after distribution under  
 28           subdivision (2), the clerk shall distribute the remainder of the  
 29           partial payment for deposit in the state user fee fund.
- 30           (4) If there is money remaining after distribution under  
 31           subdivision (3), the clerk shall distribute the remainder of the  
 32           partial payment to any other applicable user fee fund.
- 33           (5) If there is money remaining after distribution under  
 34           subdivision (4), the clerk shall apply the remainder of the partial  
 35           payment to any outstanding fines owed by the defendant.

36           SECTION 31. IC 33-37-4-2, AS AMENDED BY P.L.182-2009(ss),  
 37           SECTION 393, IS AMENDED TO READ AS FOLLOWS  
 38           [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Except as provided in  
 39           subsections (d) and (e), for each action that results in a judgment:

- 40           (1) for a violation constituting an infraction; or
- 41           (2) for a violation of an ordinance of a municipal corporation (as  
 42           defined in IC 36-1-2-10);

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1 the clerk shall collect from the defendant an infraction or ordinance  
2 violation costs fee of seventy dollars (\$70).

3 (b) In addition to the infraction or ordinance violation costs fee  
4 collected under this section, the clerk shall collect from the defendant  
5 the following fees, if they are required under IC 33-37-5:

6 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or  
7 IC 33-37-5-4).

8 (2) An alcohol and drug services program user fee  
9 (IC 33-37-5-8(b)).

10 (3) A law enforcement continuing education program fee  
11 (IC 33-37-5-8(c)).

12 (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

13 (5) A highway work zone fee (IC 33-37-5-14).

14 (6) A deferred prosecution fee (~~IC 33-37-5-17~~).  
15 **(IC 33-37-5-17(b)).**

16 (7) A jury fee (IC 33-37-5-19).

17 (8) A document storage fee (IC 33-37-5-20).

18 (9) An automated record keeping fee (IC 33-37-5-21).

19 (10) A late payment fee (IC 33-37-5-22).

20 (11) A public defense administration fee (IC 33-37-5-21.2).

21 (12) A judicial insurance adjustment fee (IC 33-37-5-25).

22 (13) A judicial salaries fee (IC 33-37-5-26).

23 (14) A court administration fee (IC 33-37-5-27).

24 (15) A DNA sample processing fee (IC 33-37-5-26.2).

25 **(16) A county offender deferral fee (IC 33-37-5-17(c)).**

26 (c) The clerk shall transfer to the county auditor or fiscal officer of  
27 the municipal corporation the following fees, not later than thirty (30)  
28 days after the fees are collected:

29 (1) The alcohol and drug services program user fee  
30 (IC 33-37-5-8(b)).

31 (2) The law enforcement continuing education program fee  
32 (IC 33-37-5-8(c)).

33 (3) ~~The~~ **Fifty dollars (\$50) of the deferral program initial user's**  
34 **fee (subsection (c)(1)); (subsection (e)(1)), or, if the initial**  
35 **user's fee is less than fifty-two dollars (\$52), all but two**  
36 **dollars (\$2) of the initial user's fee.**

37 (4) **The deferral program monthly user's fee under subsection**  
38 **(e)(2).**

39 (5) **The county offender deferral fee under subsection (b)(16),**  
40 **for deposit in the county offender fund (IC 36).**

41 The auditor or fiscal officer shall deposit the fees in the user fee fund  
42 established under IC 33-37-8.

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1 (d) The defendant is not liable for any ordinance violation costs fee  
2 in an action if all the following apply:

- 3 (1) The defendant was charged with an ordinance violation  
4 subject to IC 33-36.  
5 (2) The defendant denied the violation under IC 33-36-3.  
6 (3) Proceedings in court against the defendant were initiated  
7 under IC 34-28-5 (or IC 34-4-32 before its repeal).  
8 (4) The defendant was tried and the court entered judgment for  
9 the defendant for the violation.

10 (e) Instead of the infraction or ordinance violation costs fee  
11 prescribed by subsection (a), except for the automated record keeping  
12 fee (IC 33-37-5-21), the clerk shall collect a deferral program fee if an  
13 agreement between a prosecuting attorney or an attorney for a  
14 municipal corporation and the person charged with a violation entered  
15 into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires  
16 payment of those fees by the person charged with the violation. The  
17 deferral program fee is:

- 18 (1) an initial user's fee not to exceed fifty-two dollars (\$52); and  
19 (2) a monthly user's fee not to exceed ten dollars (\$10) for each  
20 month the person remains in the deferral program.

21 **(f) The clerk shall transfer to the auditor of state, not later than**  
22 **thirty (30) days after the fees are collected, two dollars (\$2) of each**  
23 **deferral program initial user's fee. The auditor of state shall**  
24 **deposit:**

- 25 **(1) one dollar (\$1) in the public defense fund established by**  
26 **IC 33-40-6-1; and**  
27 **(2) one dollar (\$1) in the state sex and violent offender**  
28 **administration fund established by IC 11-8-8-21.**

29 **(g)** The fees prescribed by this section are costs for purposes of  
30 IC 34-28-5-5 and may be collected from a defendant against whom  
31 judgment is entered. Any penalty assessed is in addition to costs.

32 SECTION 32. IC 33-37-5-17, AS AMENDED BY P.L.176-2005,  
33 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2011]: Sec. 17. (a) This section applies to actions in which the  
35 court defers prosecution under IC 33-39-1-8.

36 (b) In each action in which prosecution is deferred, the clerk shall  
37 collect from the defendant a deferred prosecution fee of one hundred  
38 twenty dollars (\$120) for court costs.

39 **(c) In each action in which prosecution is deferred, the clerk**  
40 **shall collect from the defendant a county offender deferral fee of**  
41 **fifteen dollars (\$15).**

42 SECTION 33. IC 33-37-5-31 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2011]: **Sec. 31. In each action in which a**  
 3 **person is required to pay a pretrial diversion fee, the clerk shall**  
 4 **collect a county offender diversion fee of thirty dollars (\$30).**

5 SECTION 34. IC 33-37-7-2, AS AMENDED BY P.L.182-2009(ss),  
 6 SECTION 395, IS AMENDED TO READ AS FOLLOWS  
 7 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The clerk of a circuit court  
 8 shall distribute semiannually to the auditor of state as the state share for  
 9 deposit in the homeowner protection unit account established by  
 10 IC 4-6-12-9 one hundred percent (100%) of the automated record  
 11 keeping fees collected under IC 33-37-5-21 with respect to actions  
 12 resulting in the accused person entering into a pretrial diversion  
 13 program agreement under IC 33-39-1-8 or a deferral program  
 14 agreement under IC 34-28-5-1 and, **except as provided in subsection**  
 15 **(n)**, for deposit in the state general fund seventy percent (70%) of the  
 16 amount of fees collected under the following:

- 17 (1) IC 33-37-4-1(a) (criminal costs fees).
- 18 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 19 (3) IC 33-37-4-3(a) (juvenile costs fees).
- 20 (4) IC 33-37-4-4(a) (civil costs fees).
- 21 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 22 (6) IC 33-37-4-7(a) (probate costs fees).
- 23 (7) ~~IC 33-37-5-17~~ **IC 33-37-5-17(b)** (deferred prosecution fees).

24 (b) The clerk of a circuit court shall distribute semiannually to the  
 25 auditor of state for deposit in the state user fee fund established in  
 26 IC 33-37-9-2 the following:

- 27 (1) Twenty-five percent (25%) of the drug abuse, prosecution,  
 28 interdiction, and correction fees collected under  
 29 IC 33-37-4-1(b)(5).
- 30 (2) Twenty-five percent (25%) of the alcohol and drug  
 31 countermeasures fees collected under IC 33-37-4-1(b)(6),  
 32 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 33 (3) Fifty percent (50%) of the child abuse prevention fees  
 34 collected under IC 33-37-4-1(b)(7).
- 35 (4) One hundred percent (100%) of the domestic violence  
 36 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- 37 (5) One hundred percent (100%) of the highway work zone fees  
 38 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 39 (6) One hundred percent (100%) of the safe schools fee collected  
 40 under IC 33-37-5-18.
- 41 (7) One hundred percent (100%) of the automated record keeping  
 42 fee (IC 33-37-5-21) not distributed under subsection (a).

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1 (c) The clerk of a circuit court shall distribute monthly to the county  
2 auditor the following:

3 (1) Seventy-five percent (75%) of the drug abuse, prosecution,  
4 interdiction, and correction fees collected under  
5 IC 33-37-4-1(b)(5).

6 (2) Seventy-five percent (75%) of the alcohol and drug  
7 countermeasures fees collected under IC 33-37-4-1(b)(6),  
8 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

9 The county auditor shall deposit fees distributed by a clerk under this  
10 subsection into the county drug free community fund established under  
11 IC 5-2-11.

12 (d) The clerk of a circuit court shall distribute monthly to the county  
13 auditor fifty percent (50%) of the child abuse prevention fees collected  
14 under IC 33-37-4-1(b)(7). The county auditor shall deposit fees  
15 distributed by a clerk under this subsection into the county child  
16 advocacy fund established under IC 12-17-17.

17 (e) The clerk of a circuit court shall distribute monthly to the county  
18 auditor one hundred percent (100%) of the late payment fees collected  
19 under IC 33-37-5-22. The county auditor shall deposit fees distributed  
20 by a clerk under this subsection as follows:

21 (1) If directed to do so by an ordinance adopted by the county  
22 fiscal body, the county auditor shall deposit forty percent (40%)  
23 of the fees in the clerk's record perpetuation fund established  
24 under IC 33-37-5-2 and sixty percent (60%) of the fees in the  
25 county general fund.

26 (2) If the county fiscal body has not adopted an ordinance  
27 described in subdivision (1), the county auditor shall deposit all  
28 the fees in the county general fund.

29 (f) The clerk of the circuit court shall distribute semiannually to the  
30 auditor of state for deposit in the sexual assault victims assistance  
31 account established by IC 5-2-6-23(h) one hundred percent (100%) of  
32 the sexual assault victims assistance fees collected under  
33 IC 33-37-5-23.

34 (g) The clerk of a circuit court shall distribute monthly to the county  
35 auditor the following:

36 (1) One hundred percent (100%) of the support and maintenance  
37 fees for cases designated as non-Title IV-D child support cases in  
38 the Indiana support enforcement tracking system (ISETS)  
39 collected under IC 33-37-5-6.

40 (2) The percentage share of the support and maintenance fees for  
41 cases designated as IV-D child support cases in ISETS collected  
42 under IC 33-37-5-6 that is reimbursable to the county at the

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1 federal financial participation rate.  
2 The county clerk shall distribute monthly to the office of the secretary  
3 of family and social services the percentage share of the support and  
4 maintenance fees for cases designated as Title IV-D child support cases  
5 in ISETS collected under IC 33-37-5-6 that is not reimbursable to the  
6 county at the applicable federal financial participation rate.

7 (h) The clerk of a circuit court shall distribute monthly to the county  
8 auditor the following:

9 (1) One hundred percent (100%) of the small claims service fee  
10 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in  
11 the county general fund.

12 (2) One hundred percent (100%) of the small claims garnishee  
13 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for  
14 deposit in the county general fund.

15 (i) This subsection does not apply to court administration fees  
16 collected in small claims actions filed in a court described in IC 33-34.  
17 The clerk of a circuit court shall semiannually distribute to the auditor  
18 of state for deposit in the state general fund one hundred percent  
19 (100%) of the following:

20 (1) The public defense administration fee collected under  
21 IC 33-37-5-21.2.

22 (2) The judicial salaries fees collected under IC 33-37-5-26.

23 (3) The DNA sample processing fees collected under  
24 IC 33-37-5-26.2.

25 (4) The court administration fees collected under IC 33-37-5-27.

26 (j) The clerk of a circuit court shall semiannually distribute to the  
27 auditor of state for deposit in the judicial branch insurance adjustment  
28 account established by IC 33-38-5-8.2 one hundred percent (100%) of  
29 the judicial insurance adjustment fee collected under IC 33-37-5-25.

30 (k) The proceeds of the service fee collected under  
31 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as  
32 follows:

33 (1) The clerk shall distribute one hundred percent (100%) of the  
34 service fees collected in a circuit, superior, county, or probate  
35 court to the county auditor for deposit in the county general fund.

36 (2) The clerk shall distribute one hundred percent (100%) of the  
37 service fees collected in a city or town court to the city or town  
38 fiscal officer for deposit in the city or town general fund.

39 (l) The proceeds of the garnishee service fee collected under  
40 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as  
41 follows:

42 (1) The clerk shall distribute one hundred percent (100%) of the

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1 garnishee service fees collected in a circuit, superior, county, or  
2 probate court to the county auditor for deposit in the county  
3 general fund.

4 (2) The clerk shall distribute one hundred percent (100%) of the  
5 garnishee service fees collected in a city or town court to the city  
6 or town fiscal officer for deposit in the city or town general fund.

7 (m) The clerk of the circuit court shall distribute semiannually to the  
8 auditor of state for deposit in the home ownership education account  
9 established by IC 5-20-1-27 one hundred percent (100%) of the  
10 mortgage foreclosure counseling and education fees collected under  
11 IC 33-37-5-30 (before its expiration on January 1, 2013).

12 **(n) This subsection applies only to the seventy percent (70%) of**  
13 **the deferred prosecution fee (IC 33-37-5-17(b)) transferred to the**  
14 **auditor of state under subsection (a). The auditor of state shall**  
15 **deposit:**

16 (1) one and two-tenths percent (1.2%) of the deferred  
17 prosecution fee received from the clerk of a circuit court in  
18 the public defense fund established by IC 33-40-6-1; and

19 (2) one and two-tenths percent (1.2%) of the deferred  
20 prosecution fee received from the clerk of a circuit court in  
21 the state sex and violent offender administration fund  
22 established by IC 11-8-8-21.

23 **The auditor of state shall deposit the remaining funds in the state**  
24 **general fund.**

25 (o) The clerk of a circuit court shall distribute monthly to the  
26 county auditor for deposit in the county offender fund established  
27 by IC 36-2-21-1 one hundred percent (100%) of the following:

28 (1) The county offender deferral fee (IC 33-37-5-17(c)).

29 (2) The county offender diversion fee (IC 33-37-5-31).

30 SECTION 35. IC 33-37-7-8, AS AMENDED BY P.L.182-2009(ss),  
31 SECTION 396, IS AMENDED TO READ AS FOLLOWS  
32 [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) The clerk of a city or town  
33 court shall distribute semiannually to the auditor of state as the state  
34 share for deposit in the homeowner protection unit account established  
35 by IC 4-6-12-9 one hundred percent (100%) of the automated record  
36 keeping fees collected under IC 33-37-5-21 with respect to actions  
37 resulting in the accused person entering into a pretrial diversion  
38 program agreement under IC 33-39-1-8 or a deferral program  
39 agreement under IC 34-28-5-1 and, **except as provided in subsection**  
40 **(j)**, for deposit in the state general fund fifty-five percent (55%) of the  
41 amount of fees collected under the following:

42 (1) IC 33-37-4-1(a) (criminal costs fees).

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- 1 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 2 (3) IC 33-37-4-4(a) (civil costs fees).
- 3 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 4 (5) ~~IC 33-37-5-17~~ **IC 33-37-5-17(b)** (deferred prosecution fees).
- 5 (b) The city or town fiscal officer shall distribute monthly to the
- 6 county auditor as the county share twenty percent (20%) of the amount
- 7 of fees collected under the following:
- 8 (1) IC 33-37-4-1(a) (criminal costs fees).
- 9 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 10 (3) IC 33-37-4-4(a) (civil costs fees).
- 11 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 12 (5) ~~IC 33-37-5-17~~ **IC 33-237-5-17(b)** (deferred prosecution fees).
- 13 (c) The city or town fiscal officer shall retain twenty-five percent
- 14 (25%) as the city or town share of the fees collected under the
- 15 following:
- 16 (1) IC 33-37-4-1(a) (criminal costs fees).
- 17 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 18 (3) IC 33-37-4-4(a) (civil costs fees).
- 19 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 20 (5) ~~IC 33-37-5-17~~ **IC 33-237-5-17(b)** (deferred prosecution fees).
- 21 (d) The clerk of a city or town court shall distribute semiannually to
- 22 the auditor of state for deposit in the state user fee fund established in
- 23 IC 33-37-9 the following:
- 24 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
- 25 interdiction, and correction fees collected under
- 26 IC 33-37-4-1(b)(5).
- 27 (2) Twenty-five percent (25%) of the alcohol and drug
- 28 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 29 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 30 (3) One hundred percent (100%) of the highway work zone fees
- 31 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 32 (4) One hundred percent (100%) of the safe schools fee collected
- 33 under IC 33-37-5-18.
- 34 (5) One hundred percent (100%) of the automated record keeping
- 35 fee (IC 33-37-5-21) not distributed under subsection (a).
- 36 (e) The clerk of a city or town court shall distribute monthly to the
- 37 county auditor the following:
- 38 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
- 39 interdiction, and corrections fees collected under
- 40 IC 33-37-4-1(b)(5).
- 41 (2) Seventy-five percent (75%) of the alcohol and drug
- 42 countermeasures fees collected under IC 33-37-4-1(b)(6),

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1 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).  
 2 The county auditor shall deposit fees distributed by a clerk under this  
 3 subsection into the county drug free community fund established under  
 4 IC 5-2-11.

5 (f) The clerk of a city or town court shall distribute monthly to the  
 6 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred  
 7 percent (100%) of the following:

- 8 (1) The late payment fees collected under IC 33-37-5-22.  
 9 (2) The small claims service fee collected under  
 10 IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).  
 11 (3) The small claims garnishee service fee collected under  
 12 IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

13 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit  
 14 fees distributed by a clerk under this subsection in the city or town  
 15 general fund.

16 (g) The clerk of a city or town court shall semiannually distribute to  
 17 the auditor of state for deposit in the state general fund one hundred  
 18 percent (100%) of the following:

- 19 (1) The public defense administration fee collected under  
 20 IC 33-37-5-21.2.  
 21 (2) The DNA sample processing fees collected under  
 22 IC 33-37-5-26.2.  
 23 (3) The court administration fees collected under IC 33-37-5-27.

24 (h) The clerk of a city or town court shall semiannually distribute to  
 25 the auditor of state for deposit in the judicial branch insurance  
 26 adjustment account established by IC 33-38-5-8.2 one hundred percent  
 27 (100%) of the judicial insurance adjustment fee collected under  
 28 IC 33-37-5-25.

29 (i) The clerk of a city or town court shall semiannually distribute to  
 30 the auditor of state for deposit in the state general fund seventy-five  
 31 percent (75%) of the judicial salaries fee collected under  
 32 IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five  
 33 percent (25%) of the judicial salaries fee collected under  
 34 IC 33-37-5-26. The funds retained by the city or town shall be  
 35 prioritized to fund city or town court operations.

36 **(j) This subsection applies only to the fifty-five percent (55%) of**  
 37 **the deferred prosecution fee (IC 33-37-5-17) transferred to the**  
 38 **auditor of state under subsection (a). The auditor of state shall**  
 39 **deposit:**

- 40 **(1) one and five-tenths percent (1.5%) of the deferred**  
 41 **prosecution fee received from the clerk of a city or town court**  
 42 **in the public defense fund established by IC 33-40-6-1; and**

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1 (2) one and five-tenths percent (1.5%) of the deferred  
2 prosecution fee received from the clerk of a city or town court  
3 in the state sex and violent offender administration fund  
4 established by IC 11-8-8-21.

5 The auditor of state shall deposit the remaining funds in the state  
6 general fund.

7 (k) The clerk of a city or town court shall monthly distribute to  
8 the county auditor for deposit in the county offender fund  
9 (IC 35-2-21-1) one hundred percent (100%) of the following:

10 (1) The county offender deferral fee.

11 (2) The county offender diversion fee.

12 SECTION 36. IC 34-30-3-2 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The definitions  
14 set forth in IC 22-11-20 apply to this section.

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

- 18 (1) anhydrous ammonia (NH<sub>3</sub>);
- 19 (2) an ammonia solution; or
- 20 (3) a container used to store or transport anhydrous ammonia or  
21 an ammonia solution;

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

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

- 27 (1) the victim or agent committed a crime involving the  
28 anhydrous ammonia, ammonia solution, or container that is the  
29 subject of the theft or criminal conversion; or
- 30 (2) the victim's or agent's willful or intentional commission of a  
31 violation of an applicable law, rule, or regulation governing the:  
32 (A) design;  
33 (B) construction;  
34 (C) location;  
35 (D) installation; or  
36 (E) operation;

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

40 SECTION 37. IC 34-30-20-1 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A person is immune  
42 from civil liability based on an act or omission related to the use of a

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1 firearm or ammunition for a firearm by another person if the other  
2 person directly or indirectly obtained the firearm or ammunition for a  
3 firearm through the commission of the following:

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

10 SECTION 38. IC 35-32-2-2 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person may be  
12 tried for theft or conversion in any county in which ~~he~~ **the person**  
13 exerted unauthorized control over the property.

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

18 SECTION 39. IC 35-34-1-5, AS AMENDED BY P.L.178-2007,  
19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2011]: Sec. 5. (a) An indictment or information which charges  
21 the commission of an offense may not be dismissed but may be  
22 amended on motion by the prosecuting attorney at any time because of  
23 any immaterial defect, including:

- 24 (1) any miswriting, misspelling, or grammatical error;
- 25 (2) any misjoinder of parties defendant or offenses charged;
- 26 (3) the presence of any unnecessary repugnant allegation;
- 27 (4) the failure to negate any exception, excuse, or provision
- 28 contained in the statute defining the offense;
- 29 (5) the use of alternative or disjunctive allegations as to the acts,
- 30 means, intents, or results charged;
- 31 (6) any mistake in the name of the court or county in the title of
- 32 the action, or the statutory provision alleged to have been
- 33 violated;
- 34 (7) the failure to state the time or place at which the offense was
- 35 committed where the time or place is not of the essence of the
- 36 offense;
- 37 (8) the failure to state an amount of value or price of any matter
- 38 where that value or price is not of the essence of the offense; or
- 39 (9) any other defect which does not prejudice the substantial
- 40 rights of the defendant.

41 (b) The indictment or information may be amended in matters of  
42 substance and the names of material witnesses may be added, by the

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1 prosecuting attorney, upon giving written notice to the defendant at any  
2 time:

- 3 (1) up to:
- 4 (A) thirty (30) days if the defendant is charged with a felony;
- 5 or
- 6 (B) fifteen (15) days if the defendant is charged only with one
- 7 (1) or more misdemeanors;
- 8 before the omnibus date; or
- 9 (2) before the commencement of trial;

10 if the amendment does not prejudice the substantial rights of the  
11 defendant. When the information or indictment is amended, it shall be  
12 signed by the prosecuting attorney or a deputy prosecuting attorney.

13 (c) Upon motion of the prosecuting attorney, the court may, at any  
14 time before, during, or after the trial, permit an amendment to the  
15 indictment or information in respect to any defect, imperfection, or  
16 omission in form which does not prejudice the substantial rights of the  
17 defendant.

18 (d) Before amendment of any indictment or information other than  
19 amendment as provided in subsection (b), ~~of this section~~, the court  
20 shall give all parties adequate notice of the intended amendment and  
21 an opportunity to be heard. Upon permitting such amendment, the court  
22 shall, upon motion by the defendant, order any continuance of the  
23 proceedings which may be necessary to accord the defendant adequate  
24 opportunity to prepare ~~his~~ **the defendant's** defense.

25 (e) An amendment of an indictment or information to include a  
26 habitual offender charge under IC 35-50-2-8, IC 35-50-2-8.5, or  
27 IC 35-50-2-10 ~~must be made not later than ten (10) days after the~~  
28 ~~omnibus date. However, upon a showing of good cause, the court may~~  
29 ~~permit the filing of a habitual offender charge at~~ **may be made**  
30 **any time before the commencement of the trial if the amendment does not**  
31 **prejudice the substantial rights of the defendant.**

32 SECTION 40. IC 35-33-1-1, AS AMENDED BY P.L.50-2005,  
33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2011]: Sec. 1. (a) A law enforcement officer may arrest a  
35 person when the officer has:

- 36 (1) a warrant commanding that the person be arrested;
- 37 (2) probable cause to believe the person has committed or
- 38 attempted to commit, or is committing or attempting to commit,
- 39 **theft or** a felony;
- 40 (3) probable cause to believe the person has violated the
- 41 provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1),
- 42 IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;

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- 1 (4) probable cause to believe the person is committing or
- 2 attempting to commit a misdemeanor in the officer's presence;
- 3 (5) probable cause to believe the person has committed a:
- 4 (A) battery resulting in bodily injury under IC 35-42-2-1; or
- 5 (B) domestic battery under IC 35-42-2-1.3.
- 6 The officer may use an affidavit executed by an individual alleged
- 7 to have direct knowledge of the incident alleging the elements of
- 8 the offense of battery to establish probable cause;
- 9 (6) probable cause to believe that the person violated
- 10 IC 35-46-1-15.1 (invasion of privacy);
- 11 (7) probable cause to believe that the person violated
- 12 IC 35-47-2-1 (carrying a handgun without a license) or
- 13 IC 35-47-2-22 (counterfeit handgun license);
- 14 (8) probable cause to believe that the person is violating or has
- 15 violated an order issued under IC 35-50-7;
- 16 (9) probable cause to believe that the person is violating or has
- 17 violated IC 35-47-6-1.1 (undisclosed transport of a dangerous
- 18 device); or
- 19 (10) probable cause to believe that the person is:
- 20 (A) violating or has violated IC 35-45-2-5 (interference with
- 21 the reporting of a crime); and
- 22 (B) interfering with or preventing the reporting of a crime
- 23 involving domestic or family violence (as defined in
- 24 IC 34-6-2-34.5).
- 25 (b) A person who:
- 26 (1) is employed full time as a federal enforcement officer;
- 27 (2) is empowered to effect an arrest with or without warrant for a
- 28 violation of the United States Code; and
- 29 (3) is authorized to carry firearms in the performance of the
- 30 person's duties;
- 31 may act as an officer for the arrest of offenders against the laws of this
- 32 state where the person reasonably believes that a felony has been or is
- 33 about to be committed or attempted in the person's presence.
- 34 SECTION 41. IC 35-38-1-7.8 IS ADDED TO THE INDIANA
- 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 36 [EFFECTIVE JULY 1, 2011]: **Sec. 7.8. (a) At the time of sentencing,**
- 37 **a court shall determine whether a person is a credit restricted felon**
- 38 **(as defined in IC 35-41-1-5.5).**
- 39 **(b) A determination under subsection (a) must be based upon:**
- 40 **(1) evidence introduced at trial; or**
- 41 **(2) a factual basis provided as part of a guilty plea.**
- 42 **(c) Upon determining that a defendant is a credit restricted**

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felon, a court shall advise the defendant of the consequences of this finding.

(d) A judge shall record a determination that a defendant is a credit restricted felon on a form prepared by the division of state court administration.

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

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

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

- (1) on probation;
- (2) in a community corrections program under IC 35-38-2.6;
- 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 43. 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

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- 1 remain in a specified institution if required for that purpose.
- 2 (3) Attend or reside in a facility established for the instruction,  
3 recreation, or residence of persons on probation.
- 4 (4) Support the person's dependents and meet other family  
5 responsibilities.
- 6 (5) Make restitution or reparation to the victim of the crime for  
7 damage or injury that was sustained by the victim. When  
8 restitution or reparation is a condition of probation, the court shall  
9 fix the amount, which may not exceed an amount the person can  
10 or will be able to pay, and shall fix the manner of performance.
- 11 (6) Execute a repayment agreement with the appropriate  
12 governmental entity to repay the full amount of public relief or  
13 assistance wrongfully received, and make repayments according  
14 to a repayment schedule set out in the agreement.
- 15 (7) Pay a fine authorized by IC 35-50.
- 16 (8) Refrain from possessing a firearm or other deadly weapon  
17 unless granted written permission by the court or the person's  
18 probation officer.
- 19 (9) Report to a probation officer at reasonable times as directed  
20 by the court or the probation officer.
- 21 (10) Permit the person's probation officer to visit the person at  
22 reasonable times at the person's home or elsewhere.
- 23 (11) Remain within the jurisdiction of the court, unless granted  
24 permission to leave by the court or by the person's probation  
25 officer.
- 26 (12) Answer all reasonable inquiries by the court or the person's  
27 probation officer and promptly notify the court or probation  
28 officer of any change in address or employment.
- 29 (13) Perform uncompensated work that benefits the community.
- 30 (14) Satisfy other conditions reasonably related to the person's  
31 rehabilitation.
- 32 (15) Undergo home detention under IC 35-38-2.5.
- 33 (16) Undergo a laboratory test or series of tests approved by the  
34 state department of health to detect and confirm the presence of  
35 the human immunodeficiency virus (HIV) antigen or antibodies  
36 to the human immunodeficiency virus (HIV), if:
- 37 (A) the person had been convicted of an offense relating to a  
38 criminal sexual act and the offense created an  
39 epidemiologically demonstrated risk of transmission of the  
40 human immunodeficiency virus (HIV); or
- 41 (B) the person had been convicted of an offense relating to a  
42 controlled substance and the offense involved:

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- 1 (i) the delivery by any person to another person; or  
 2 (ii) the use by any person on another person;  
 3 of a contaminated sharp (as defined in IC 16-41-16-2) or other  
 4 paraphernalia that creates an epidemiologically demonstrated  
 5 risk of transmission of HIV by involving percutaneous contact.  
 6 (17) Refrain from any direct or indirect contact with an individual  
 7 and, if convicted of an offense under IC 35-46-3, any animal  
 8 belonging to the individual.  
 9 (18) Execute a repayment agreement with the appropriate  
 10 governmental entity or with a person for reasonable costs incurred  
 11 because of the taking, detention, or return of a missing child (as  
 12 defined in IC 10-13-5-4).  
 13 (19) Periodically undergo a laboratory chemical test (as defined  
 14 in IC 14-15-8-1) or series of chemical tests as specified by the  
 15 court to detect and confirm the presence of a controlled substance  
 16 (as defined in IC 35-48-1-9). The person on probation is  
 17 responsible for any charges resulting from a test and shall have  
 18 the results of any test under this subdivision reported to the  
 19 person's probation officer by the laboratory.  
 20 (20) If the person was confined in a penal facility, execute a  
 21 reimbursement plan as directed by the court and make repayments  
 22 under the plan to the authority that operates the penal facility for  
 23 all or part of the costs of the person's confinement in the penal  
 24 facility. The court shall fix an amount that:  
 25 (A) may not exceed an amount the person can or will be able  
 26 to pay;  
 27 (B) does not harm the person's ability to reasonably be self  
 28 supporting or to reasonably support any dependent of the  
 29 person; and  
 30 (C) takes into consideration and gives priority to any other  
 31 restitution, reparation, repayment, or fine the person is  
 32 required to pay under this section.  
 33 (21) Refrain from owning, harboring, or training an animal.  
 34 (22) Participate in a reentry court program.  
 35 (b) When a person is placed on probation, the person shall be given  
 36 a written statement specifying:  
 37 (1) the conditions of probation; and  
 38 (2) that if the person violates a condition of probation during the  
 39 probationary period, a petition to revoke probation may be filed  
 40 before the earlier of the following:  
 41 (A) One (1) year after the termination of probation.  
 42 (B) Forty-five (45) days after the state receives notice of the

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violation.

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

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

- (1) the term of imprisonment;
- (2) the days or parts of days during which a person is to be confined; and
- (3) the conditions.

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

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

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

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

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

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

to provide a DNA sample as a condition of probation.

SECTION 44. IC 35-38-2-3, AS AMENDED BY P.L.106-2010, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The court may revoke a person's probation

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- 1 if:
- 2 (1) the person has violated a condition of probation during the
- 3 probationary period; and
- 4 (2) the petition to revoke probation is filed during the
- 5 probationary period or before the earlier of the following:
- 6 (A) One (1) year after the termination of probation.
- 7 (B) Forty-five (45) days after the state receives notice of the
- 8 violation.
- 9 (b) When a petition is filed charging a violation of a condition of
- 10 probation, the court may:
- 11 (1) order a summons to be issued to the person to appear; or
- 12 (2) order a warrant for the person's arrest if there is a risk of the
- 13 person's fleeing the jurisdiction or causing harm to others.
- 14 (c) The issuance of a summons or warrant tolls the period of
- 15 probation until the final determination of the charge.
- 16 (d) **Except as provided in subsection (e), the court shall conduct**
- 17 **a hearing concerning the alleged violation. The court may admit the**
- 18 **person to bail pending the hearing. A person who is not admitted to**
- 19 **bail pending the hearing may not be held in jail for more than**
- 20 **fifteen (15) days without a hearing on the violation.**
- 21 (e) **A person may admit to the violation and waive the right to**
- 22 **a probation violation hearing after being offered the opportunity**
- 23 **to consult with an attorney. If the person admits to the violation**
- 24 **and requests to waive the probation violation hearing, the**
- 25 **probation officer shall advise the person that by waiving the right**
- 26 **to a probation violation hearing the person forfeits the rights**
- 27 **provided in subsection (f). The sanction administered must follow**
- 28 **the schedule of progressive probation violation sanctions adopted**
- 29 **by the judicial conference of Indiana under IC 11-13-1-8.**
- 30 (f) **Except as provided in subsection (e), the state must prove**
- 31 **the violation by a preponderance of the evidence. The evidence shall**
- 32 **be presented in open court. The person is entitled to confrontation,**
- 33 **cross-examination, and representation by counsel.**
- 34 (g) Probation may not be revoked for failure to comply with
- 35 conditions of a sentence that imposes financial obligations on the
- 36 person unless the person recklessly, knowingly, or intentionally fails to
- 37 pay.
- 38 (h) If the court finds that the person has violated a condition at
- 39 any time before termination of the period, and the petition to revoke is
- 40 filed within the probationary period, the court may impose one (1) or
- 41 more of the following sanctions:
- 42 (1) Continue the person on probation, with or without modifying

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- 1 or enlarging the conditions.
- 2 (2) Extend the person's probationary period for not more than one
- 3 (1) year beyond the original probationary period.
- 4 (3) Order execution of all or part of the sentence that was
- 5 suspended at the time of initial sentencing.
- 6 ~~(h)~~ (i) If the court finds that the person has violated a condition of
- 7 home detention at any time before termination of the period, and the
- 8 petition to revoke probation is filed within the probationary period, the
- 9 court shall:
- 10 (1) order one (1) or more sanctions as set forth in subsection ~~(g)~~;
- 11 **(h)**; and
- 12 (2) provide credit for time served as set forth under
- 13 IC 35-38-2.5-5.
- 14 ~~(i)~~ (j) If the court finds that the person has violated a condition
- 15 during any time before the termination of the period, and the petition
- 16 is filed under subsection (a) after the probationary period has expired,
- 17 the court may:
- 18 (1) reinstate the person's probationary period, with or without
- 19 enlarging the conditions, if the sum of the length of the original
- 20 probationary period and the reinstated probationary period does
- 21 not exceed the length of the maximum sentence allowable for the
- 22 offense that is the basis of the probation; or
- 23 (2) order execution of all or part of the sentence that was
- 24 suspended at the time of the initial sentencing.
- 25 ~~(j)~~ (k) If the court finds that the person has violated a condition of
- 26 home detention during any time before termination of the period, and
- 27 the petition is filed under subsection (a) after the probation period has
- 28 expired, the court shall:
- 29 (1) order a sanction as set forth in subsection ~~(i)~~; **(j)**; and
- 30 (2) provide credit for time served as set forth under
- 31 IC 35-38-2.5-5.
- 32 ~~(k)~~ (l) A judgment revoking probation is a final appealable order.
- 33 ~~(l)~~ (m) Failure to pay fines or costs (including fees) required as a
- 34 condition of probation may not be the sole basis for commitment to the
- 35 department of correction.
- 36 ~~(m)~~ (n) Failure to pay fees or costs assessed against a person under
- 37 IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for
- 38 revocation of probation.
- 39 SECTION 45. IC 35-38-2.6-1, AS AMENDED BY P.L.151-2006,
- 40 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 41 JULY 1, 2011]: Sec. 1. (a) Except as provided in subsection (b), this
- 42 chapter applies to the sentencing of a person convicted of:

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- 1 (1) a felony whenever any part of the sentence may not be  
 2 suspended under IC 35-50-2-2; ~~or IC 35-50-2-2.1;~~  
 3 (2) a misdemeanor whenever any part of the sentence may not be  
 4 suspended; or  
 5 (3) an offense described in ~~IC 35-50-2-2(b)(4)(R)~~  
 6 **IC 35-50-2-2(b)(3)(R)** (operating a vehicle while intoxicated with  
 7 at least two (2) prior unrelated convictions), if the person:  
 8 (A) is required to serve the nonsuspendible part of the  
 9 sentence in a community corrections:  
 10 (i) work release program; or  
 11 (ii) program that uses electronic monitoring as a part of the  
 12 person's supervision; and  
 13 (B) participates in a court approved substance abuse program.  
 14 (b) This chapter does not apply to persons convicted of any of the  
 15 following:  
 16 (1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.  
 17 (2) Except as provided in subsection (a)(3), any of the felonies  
 18 listed in ~~IC 35-50-2-2(b)(4); IC 35-50-2-2(b)(3).~~  
 19 (3) An offense under IC 9-30-5-4.  
 20 (4) An offense under IC 9-30-5-5.  
 21 SECTION 46. IC 35-38-3-5 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The department,  
 23 after diagnosis and classification, shall:  
 24 (1) determine the degree of security (maximum, medium, or  
 25 minimum) to which a convicted person will be assigned;  
 26 ~~(2) for each offender convicted of a Class D felony whose~~  
 27 ~~sentence for the Class D felony is nonsuspendible under~~  
 28 ~~IC 35-50-2-2(b)(3) due to a prior unrelated Class E or Class D~~  
 29 ~~felony; determine whether the offender is an appropriate~~  
 30 ~~candidate for home detention under IC 35-38-2.5;~~  
 31 ~~(3) for each offender convicted of a Class D felony whose~~  
 32 ~~sentence for the Class D felony is nonsuspendible under:~~  
 33 ~~(A) IC 35-50-2-2.1(a)(1)(B);~~  
 34 ~~(B) IC 35-50-2-2.1(a)(1)(C); or~~  
 35 ~~(C) IC 35-50-2-2.1(a)(2);~~  
 36 determine whether the offender is an appropriate candidate for  
 37 home detention under ~~IC 35-38-2.5;~~  
 38 ~~(4) (2) for each offender:~~  
 39 (A) committed to the department because the offender has  
 40 been convicted for the first time of a Class C or a Class D  
 41 felony; and  
 42 (B) whose sentence may be suspended;

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

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

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

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

18 SECTION 47. IC 35-38-5-5.5 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2011]: **Sec. 5.5. (a) If a person charged with  
21 a crime:**

22 (1) is not prosecuted or if charges against the person are  
23 dismissed;

24 (2) is acquitted of all criminal charges; or

25 (3) is convicted of the crime and the conviction is subsequently  
26 vacated;

27 **the person may petition a court to restrict disclosure of the records  
28 related to the arrest to a noncriminal justice organization or an  
29 individual.**

30 (b) A petition under subsection (a) must be verified and filed in:

31 (1) the court in which the charges against the person were  
32 filed, for a person described in subsection (a)(1); or

33 (2) the court in which the trial was held, for a person  
34 described in subsection (a)(2) or (a)(3).

35 (c) A petition under subsection (a) must be filed not earlier than:

36 (1) if the person is acquitted, thirty (30) days after the person  
37 is acquitted;

38 (2) if the person's conviction is vacated, three hundred  
39 sixty-five (365) days after:

40 (A) the order vacating the person's conviction is final, if  
41 there is no appeal or the appeal is terminated before entry  
42 of an opinion or memorandum decision; or

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- 1           **(B) the opinion or memorandum decision vacating the**  
 2           **person's conviction is certified; or**  
 3           **(3) if the person is not prosecuted, thirty (30) days after**  
 4           **charges are dismissed, if the charges are not refiled.**  
 5       **(d) A petition under subsection (a) must set forth:**  
 6           **(1) the date of the arrest;**  
 7           **(2) the charge;**  
 8           **(3) the date charges were dismissed, if applicable;**  
 9           **(4) the date of conviction or acquittal, if applicable;**  
 10          **(5) the date the conviction was vacated, if applicable;**  
 11          **(6) the basis on which the conviction was vacated, if**  
 12          **applicable;**  
 13          **(7) the law enforcement agency employing the arresting**  
 14          **officer;**  
 15          **(8) any other known identifying information, such as the name**  
 16          **of the arresting officer, case number, or court cause number;**  
 17          **(9) the date of the petitioner's birth; and**  
 18          **(10) the petitioner's Social Security number.**  
 19       **(e) A copy of a petition under subsection (a) shall be served on**  
 20       **the prosecuting attorney and the state central repository for**  
 21       **records.**  
 22       **(f) If the prosecuting attorney wishes to oppose a petition under**  
 23       **subsection (a), the prosecuting attorney shall, not later than thirty**  
 24       **(30) days after the petition is filed, file a notice of opposition with**  
 25       **the court setting forth reasons for opposing the petition. The**  
 26       **prosecuting attorney shall attach to the notice of opposition a**  
 27       **certified copy of any documentary evidence showing that the**  
 28       **petitioner is not entitled to relief. A copy of the notice of opposition**  
 29       **and copies of any documentary evidence shall be served on the**  
 30       **petitioner in accordance with the Indiana Rules of Trial Procedure.**  
 31       **The court may:**  
 32           **(1) summarily grant the petition;**  
 33           **(2) set the matter for hearing; or**  
 34           **(3) summarily deny the petition, if the court determines that:**  
 35               **(A) the petition is insufficient; or**  
 36               **(B) based on documentary evidence submitted by the**  
 37               **prosecuting attorney, the petitioner is not entitled to have**  
 38               **access to the petitioner's arrest records restricted.**  
 39       **(g) If a notice of opposition is filed under subsection (f) and the**  
 40       **court does not summarily grant or summarily deny the petition,**  
 41       **the court shall set the matter for a hearing.**  
 42       **(h) After a hearing is held under subsection (g), the court shall**

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1 grant the petition filed under subsection (a), unless the petitioner  
2 is being reprobsecuted on charges related to the original conviction.

3 (i) If the court grants a petition filed under subsection (a), the  
4 court shall order the state police department not to disclose or  
5 permit disclosure of the petitioner's limited criminal history  
6 information to a noncriminal justice organization or an individual  
7 under IC 10-13-3-27.

8 SECTION 48. IC 35-38-8 IS ADDED TO THE INDIANA CODE  
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2011]:

11 **Chapter 8. Restricted Access to Conviction Records**

12 **Sec. 1. This chapter does not apply to a sex or violent offender.**

13 **Sec. 2. This chapter applies only to a person:**

- 14 (1) convicted of a misdemeanor or a Class D felony that did  
15 not result in injury to a person; or  
16 (2) adjudicated a delinquent child for committing an offense  
17 that, if committed by an adult, would be a misdemeanor or  
18 Class D felony that did not result in injury to a person.

19 **Sec. 3. Eight (8) years after the date a person completes the**  
20 **person's sentence and satisfies any other obligations imposed on**  
21 **the person as a part of the sentence, the person may petition a**  
22 **sentencing court to order the state police department to restrict**  
23 **access to the records concerning the person's arrest and**  
24 **involvement in criminal or juvenile court proceedings.**

25 **Sec. 4. The court shall grant a petition under this chapter if the**  
26 **court finds:**

- 27 (1) the person is not a sex or violent offender;  
28 (2) the person was:  
29 (A) convicted of a misdemeanor or a Class D felony that  
30 did not result in injury to a person; or  
31 (B) adjudicated a delinquent child for committing an  
32 offense that, if committed by an adult, would be a  
33 misdemeanor or Class D felony not resulting in injury to a  
34 person;  
35 (3) eight (8) years have passed since the person completed the  
36 person's sentence and satisfied any other obligation imposed  
37 on the person as part of the sentence; and  
38 (4) the person has not been convicted of a felony since the  
39 person completed the person's sentence and satisfied any  
40 other obligation imposed on the person as part of the  
41 sentence.

42 **Sec. 5. If the court grants the petition of a person under this**

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1 chapter, the court shall do the following:

2 (1) Order:

3 (A) the department of correction; and

4 (B) each:

5 (i) law enforcement agency; and

6 (ii) other person;

7 who incarcerated, provided treatment for, or provided  
8 other services for the person under an order of the court;  
9 to prohibit the release of the person's records or information  
10 relating to the misdemeanor, nonviolent Class D felony, or  
11 juvenile adjudication described in section 2 of this chapter, in  
12 the person's records to a noncriminal justice agency without  
13 a court order.

14 (2) Order any:

15 (A) state;

16 (B) regional; or

17 (C) local;

18 central repository for criminal history information to prohibit  
19 the release of the person's records or information relating to  
20 the misdemeanor, nonviolent Class D felony, or juvenile  
21 adjudication described in section 2 of this chapter, in the  
22 person's records to a noncriminal justice agency without a  
23 court order.

24 Sec. 5. (a) If a person whose records are restricted under this  
25 chapter brings a civil action that might be defended with the  
26 contents of the records, the defendant is presumed to have a  
27 complete defense to the action.

28 (b) For the plaintiff to recover in an action described in  
29 subsection (a), the plaintiff must show that the contents of the  
30 expunged records would not exonerate the defendant.

31 (c) In an action described in subsection (a), the plaintiff may be  
32 required to state under oath whether:

33 (1) the plaintiff had records in the criminal justice system;  
34 and

35 (2) those records were expunged.

36 (d) In an action described in subsection (a), if the plaintiff denies  
37 the existence of the records, the defendant may prove the existence  
38 of the records in any manner compatible with the law of evidence.

39 Sec. 6. If a court orders a person's records to be restricted under  
40 this chapter, the person may legally state on an application for  
41 employment or any other document that the person has not been  
42 arrested for or convicted of the felony or misdemeanor recorded

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**in the restricted records.**

SECTION 49. IC 35-41-1-5.5, AS ADDED BY P.L.80-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.5. (a) "Credit restricted felon" means a person who has been convicted of at least one (1) of the following offenses:

(1) Child molesting involving sexual intercourse or deviate sexual conduct (~~IC 35-42-4-3(a)~~); if:

(A) the offense is committed by a person at least twenty-one (21) years of age; and

(B) the victim is less than twelve (12) years of age. (IC 35-42-4-3) as a Class A or Class B felony.

(2) Child molesting (~~IC 35-42-4-3~~) resulting in serious bodily injury or death.

(3) (2) Murder (IC 35-42-1-1). if:

(A) the person killed the victim while committing or attempting to commit child molesting (~~IC 35-42-4-3~~);

(B) the victim was the victim of a sex crime under IC 35-42-4 for which the person was convicted; or

(C) the victim of the murder was listed by the state or known by the person to be a witness against the person in a prosecution for a sex crime under IC 35-42-4 and the person committed the murder with the intent to prevent the person from testifying.

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

(4) Battery (IC 35-42-2-1) as a Class A felony.

(5) Criminal deviate conduct (IC 35-42-4-2) as a Class A or Class B felony.

(6) Kidnapping (IC 35-42-3-2) as a Class A felony.

(7) Neglect of a dependent (IC 35-46-1-4) as a Class A felony.

(8) Robbery (IC 35-42-5-1) as a Class A felony.

(9) Rape (IC 35-42-4-1) as a Class A or Class B felony.

(b) This section applies only to persons who after June 30, 2011, commit an offense described in subsection (a), including an offense that makes the person a habitual offender or habitual substance offender.

SECTION 50. IC 35-41-1-8.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8.3. "Defraud" means to deprive a person of any money, property, interest, benefit, or right by means of false or deceptive pretenses, representations, or promises.

SECTION 51. IC 35-43-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A person who breaks

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1 and enters the building or structure of another person, with intent to  
2 commit **theft or** a felony in it, commits burglary, a Class C felony.  
3 However, the offense is:

- 4 (1) a Class B felony if:
    - 5 (A) it is committed while armed with a deadly weapon; or
    - 6 (B) the building or structure is a:
      - 7 (i) dwelling; or
      - 8 (ii) structure used for religious worship; and
  - 9 (2) a Class A felony if it results in:
    - 10 (A) bodily injury; or
    - 11 (B) serious bodily injury;
- 12 to any person other than a defendant.

13 SECTION 52. IC 35-43-4-2, AS AMENDED BY P.L.158-2009,  
14 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2011]: Sec. 2. ~~(a)~~ A person who knowingly or intentionally  
16 exerts unauthorized control over property of another person, with intent  
17 to deprive the other person of any part of its value or use, commits  
18 theft, a ~~Class D felony~~. **Class A misdemeanor**. However, the offense  
19 is a **Class D felony if the fair market value of the property is at  
20 least seven hundred fifty dollars (\$750) or if the person has a prior  
21 unrelated conviction for conversion or theft, and a Class C felony**  
22 if:

- 23 (1) the fair market value of the property is at least ~~one hundred~~  
24 **fifty** thousand dollars (~~\$100,000~~); **(\$50,000)**; or
  - 25 (2) the property that is the subject of the theft is a valuable metal  
26 (as defined in IC 25-37.5-1-1) and:
    - 27 (A) relates to transportation safety;
    - 28 (B) relates to public safety; or
    - 29 (C) is taken from a:
      - 30 (i) hospital or other health care facility;
      - 31 (ii) telecommunications provider;
      - 32 (iii) public utility (as defined in IC 32-24-1-5.9(a)); or
      - 33 (iv) key facility;
- 34 and the absence of the property creates a substantial risk of bodily  
35 injury to a person.

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

- 40 ~~(1)~~ the fair market value of the property is at least one hundred  
41 thousand dollars (~~\$100,000~~); or
- 42 ~~(2)~~ the property that is the subject of the theft is a valuable metal

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1 (as defined in IC 25-37.5-1-1) and:  
 2 (A) relates to transportation safety;  
 3 (B) relates to public safety; or  
 4 (C) is taken from a:  
 5 (i) hospital or other health care facility;  
 6 (ii) telecommunications provider;  
 7 (iii) public utility (as defined in IC 32-24-1-5.9(a)); or  
 8 (iv) key facility;  
 9 and the absence of the property creates a substantial risk of bodily  
 10 injury to a person.

11 SECTION 53. IC 35-43-4-8 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) A conviction for  
 13 an offense under section 2 of this chapter or section 3 of this chapter  
 14 that involves exerting unauthorized control over gasoline or motor  
 15 vehicle fuel:

16 (1) by operation of a motor vehicle to leave the premises of an  
 17 establishment at which gasoline or motor vehicle fuel is offered  
 18 for sale after the gasoline or motor vehicle fuel has been  
 19 dispensed into the fuel tank of the motor vehicle; and  
 20 (2) without payment or authorization of payment by a credit card,  
 21 debit card, charge card, or similar method of payment;  
 22 shall result in the suspension of the driving privileges of the person.

23 (b) The court imposing a sentence for a violation under subsection  
 24 (a) shall issue an order to the bureau of motor vehicles:  
 25 (1) stating that the person has been convicted of an offense under  
 26 section 2 of this chapter or section 3 of this chapter involving the  
 27 unauthorized taking of gasoline or motor vehicle fuel; and  
 28 (2) ordering the suspension of the person's driving privileges  
 29 under IC 9-25-6-21.

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

33 SECTION 54. IC 35-43-5-2, AS AMENDED BY P.L.106-2006,  
 34 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2011]: Sec. 2. (a) A person who knowingly or intentionally:

36 (1) makes or utters a written instrument in such a manner that it  
 37 purports to have been made:  
 38 (A) by another person;  
 39 (B) at another time;  
 40 (C) with different provisions; or  
 41 (D) by authority of one who did not give authority; or  
 42 (2) possesses more than one (1) written instrument knowing that

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1 the written instruments were made in a manner that they purport  
 2 to have been made:  
 3 (A) by another person;  
 4 (B) at another time;  
 5 (C) with different provisions; or  
 6 (D) by authority of one who did not give authority;  
 7 commits counterfeiting, a Class D felony.  
 8 (b) A person who, with intent to defraud, makes, utters, or possesses  
 9 a written instrument in such a manner that it purports to have been  
 10 made:  
 11 (1) by another person;  
 12 (2) at another time;  
 13 (3) with different provisions; or  
 14 (4) by authority of one who did not give authority;  
 15 commits forgery, a ~~Class C~~ **Class D** felony.  
 16 (c) This subsection applies to a person who applies for a driver's  
 17 license (as defined in IC 9-13-2-48) **or a state identification card (as**  
 18 **issued under IC 9-24-16)**. A person who:  
 19 (1) knowingly or intentionally uses a false or fictitious name or  
 20 gives a false or fictitious address in an application for a driver's  
 21 license **or a state identification card** or for a renewal or a  
 22 duplicate of a driver's license **or a state identification card**; or  
 23 (2) knowingly or intentionally makes a false statement or conceals  
 24 a material fact or otherwise commits fraud in an application for a  
 25 driver's license **or a state identification card**;  
 26 commits application fraud, a Class D felony.  
 27 (d) This subsection applies to a person who applies for a state  
 28 identification card (as issued under IC 9-24-16). A person who:  
 29 (1) knowingly or intentionally uses false information in an  
 30 application for an identification card or for a renewal or duplicate  
 31 of an identification card; or  
 32 (2) knowingly or intentionally makes a false statement or  
 33 otherwise commits fraud in an application for an identification  
 34 card;  
 35 commits application fraud, a ~~Class D~~ felony.  
 36 SECTION 55. IC 35-43-5-3 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) A person who:  
 38 (1) being an officer, manager, or other person participating in the  
 39 direction of a credit institution, knowingly or intentionally  
 40 receives or permits the receipt of a deposit or other investment,  
 41 knowing that the institution is insolvent;  
 42 (2) knowingly or intentionally:

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1 (A) makes a false or misleading written statement; or  
 2 (B) misrepresents:  
 3 (i) the identity of the person or another person;  
 4 (ii) a person as being a physician licensed under  
 5 IC 25-22.5; or  
 6 (iii) the identity or quality of property;  
 7 with intent to obtain property, employment, or an educational  
 8 opportunity;  
 9 (3) misapplies entrusted property, property of a governmental  
 10 entity, or property of a credit institution in a manner that the  
 11 person knows is unlawful or that the person knows involves  
 12 substantial risk of loss or detriment to either the owner of the  
 13 property or to a person for whose benefit the property was  
 14 entrusted;  
 15 (4) knowingly or intentionally, in the regular course of business,  
 16 either:  
 17 (A) uses or possesses for use a false weight or measure or  
 18 other device for falsely determining or recording the quality or  
 19 quantity of any commodity; or  
 20 (B) sells, offers, or displays for sale or delivers less than the  
 21 represented quality or quantity of any commodity;  
 22 (5) with intent to defraud another person furnishing electricity,  
 23 gas, water, telecommunication, or any other utility service or  
 24 cable television service, avoids a lawful charge for that service  
 25 by scheme or device or by tampering with facilities or equipment  
 26 of the person furnishing the service;  
 27 ~~(6) with intent to defraud, misrepresents the identity of the person~~  
 28 ~~or another person or the identity or quality of property;~~  
 29 ~~(7) (6) with intent to defraud an owner of a coin machine, deposits~~  
 30 ~~a slug in that machine;~~  
 31 ~~(8) (7) with intent to enable the person or another person to~~  
 32 ~~deposit a slug in a coin machine, makes, possesses, or disposes of~~  
 33 ~~a slug; or~~  
 34 ~~(9) (8) disseminates to the public an advertisement that the person~~  
 35 ~~knows is false, misleading, or deceptive, with intent to promote~~  
 36 ~~the purchase or sale of property or the acceptance of employment;~~  
 37 ~~(10) with intent to defraud, misrepresents a person as being a~~  
 38 ~~physician licensed under IC 25-22.5; or~~  
 39 ~~(11) knowingly and intentionally defrauds another person~~  
 40 ~~furnishing cable TV service by avoiding paying compensation for~~  
 41 ~~that service by any scheme or device or by tampering with~~  
 42 ~~facilities or equipment of the person furnishing the service;~~

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1 commits deception, a Class A misdemeanor.

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

8 SECTION 56. IC 35-43-5-3.5, AS AMENDED BY P.L.137-2009,  
9 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2011]: Sec. 3.5. (a) Except as provided in subsection (c), a  
11 person who knowingly or intentionally obtains, possesses, transfers, or  
12 uses the identifying information of another person, including the  
13 identifying information of a person who is deceased:

- 14 (1) without the other person's consent; and
- 15 (2) with intent to:
  - 16 (A) harm or defraud another person;
  - 17 (B) assume another person's identity; or
  - 18 (C) profess to be another person;

19 commits identity deception, a Class D felony.

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

- 22 (1) a person obtains, possesses, transfers, or uses the identifying  
23 information of more than one hundred (100) persons;
- 24 (2) the fair market value of the fraud or harm caused by the  
25 offense is at least fifty thousand dollars (\$50,000); or
- 26 (3) a person obtains, possesses, transfers, or uses the identifying  
27 information of a person who is less than eighteen (18) years of  
28 age and is:
  - 29 (A) the person's son or daughter;
  - 30 (B) a dependent of the person;
  - 31 (C) a ward of the person; or
  - 32 (D) an individual for whom the person is a guardian; or
- 33 **(4) a person obtains, possesses, transfers, or uses the**  
34 **identifying information of another person with intent to:**
  - 35 **(A) commit terrorism; or**
  - 36 **(B) obtain or transport a weapon of mass destruction.**

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

- 39 (1) a person less than twenty-one (21) years of age who uses the  
40 identifying information of another person to acquire an alcoholic  
41 beverage (as defined in IC 7.1-1-3-5);
- 42 (2) a minor (as defined in IC 35-49-1-4) who uses the identifying

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- 1 information of another person to acquire:
- 2 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
- 3 (B) a periodical, a videotape, or other communication medium
- 4 that contains or depicts nudity (as defined in IC 35-49-1-5);
- 5 (C) admittance to a performance (live or film) that prohibits
- 6 the attendance of the minor based on age; or
- 7 (D) an item that is prohibited by law for use or consumption by
- 8 a minor; or
- 9 (3) any person who uses the identifying information for a lawful
- 10 purpose.
- 11 (d) It is not a defense in a prosecution under subsection (a) or (b)
- 12 that no person was harmed or defrauded.

13 SECTION 57. IC 35-43-5-3.8, AS ADDED BY P.L.137-2009,  
 14 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2011]: Sec. 3.8. (a) A person who knowingly or intentionally  
 16 obtains, possesses, transfers, or uses the synthetic identifying  
 17 information:

- 18 (1) with intent to harm or defraud another person;
- 19 (2) with intent to assume another person's identity; or
- 20 (3) with intent to profess to be another person;
- 21 commits synthetic identity deception, a Class D felony.
- 22 (b) The offense under subsection (a) is a Class C felony if:
- 23 (1) a person obtains, possesses, transfers, or uses the synthetic
- 24 identifying information of more than one hundred (100) persons;
- 25 or
- 26 (2) the fair market value of the fraud or harm caused by the
- 27 offense is at least fifty thousand dollars (\$50,000); or
- 28 **(3) a person obtains, possesses, transfers, or uses the synthetic**
- 29 **identifying information of another person with intent to:**
- 30 **(A) commit terrorism; or**
- 31 **(B) obtain or transport a weapon of mass destruction.**

- 32 (c) The conduct prohibited in subsections (a) and (b) does not apply
- 33 to:
- 34 (1) a person less than twenty-one (21) years of age who uses the
- 35 synthetic identifying information of another person to acquire an
- 36 alcoholic beverage (as defined in IC 7.1-1-3-5); or
- 37 (2) a minor (as defined in IC 35-49-1-4) who uses the synthetic
- 38 identifying information of another person to acquire:
- 39 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
- 40 (B) a periodical, a videotape, or other communication medium
- 41 that contains or depicts nudity (as defined in IC 35-49-1-5);
- 42 (C) admittance to a performance (live or on film) that prohibits

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1 the attendance of the minor based on age; or  
2 (D) an item that is prohibited by law for use or consumption by  
3 a minor.

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

6 SECTION 58. IC 35-43-5-4.3, AS AMENDED BY P.L.137-2009,  
7 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2011]: Sec. 4.3. (a) As used in this section, "card skimming  
9 device" means a device that is designed to read information encoded on  
10 a credit card. The term includes a device designed to read, record, or  
11 transmit information encoded on a credit card:

- 12 (1) directly from a credit card; or
- 13 (2) from another device that reads information directly from a  
14 credit card.

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

- 17 (1) identity deception (IC 35-43-5-3.5);
- 18 (2) synthetic identity deception (IC 35-43-5-3.8); **or**
- 19 (3) fraud (IC 35-43-5-4); ~~or~~
- 20 ~~(4) terroristic deception (IC 35-43-5-3.6);~~

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

27 SECTION 59. IC 35-43-5-4.5, AS ADDED BY P.L.181-2005,  
28 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2011]: Sec. 4.5. (a) A person who, knowingly and with intent  
30 to defraud:

- 31 (1) makes, utters, presents, or causes to be presented to an insurer  
32 or an insurance claimant, a claim statement that contains false,  
33 incomplete, or misleading information concerning the claim;
- 34 (2) presents, causes to be presented, or prepares with knowledge  
35 or belief that it will be presented to or by an insurer, an oral, a  
36 written, or an electronic statement that the person knows to  
37 contain materially false information as part of, in support of, or  
38 concerning a fact that is material to:
  - 39 (A) the rating of an insurance policy;
  - 40 (B) a claim for payment or benefit under an insurance policy;
  - 41 (C) premiums paid on an insurance policy;
  - 42 (D) payments made in accordance with the terms of an

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1 insurance policy;  
 2 (E) an application for a certificate of authority;  
 3 (F) the financial condition of an insurer; or  
 4 (G) the acquisition of an insurer;  
 5 or conceals any information concerning a subject set forth in  
 6 clauses (A) through (G);  
 7 (3) solicits or accepts new or renewal insurance risks by or for an  
 8 insolvent insurer or other entity regulated under IC 27;  
 9 (4) removes:  
 10 (A) the assets;  
 11 (B) the record of assets, transactions, and affairs; or  
 12 (C) a material part of the assets or the record of assets,  
 13 transactions, and affairs;  
 14 of an insurer or another entity regulated under IC 27, from the  
 15 home office, other place of business, or place of safekeeping of  
 16 the insurer or other regulated entity, or conceals or attempts to  
 17 conceal from the department of insurance assets or records  
 18 referred to in clauses (A) through (B); or  
 19 (5) diverts funds of an insurer or another person in connection  
 20 with:  
 21 (A) the transaction of insurance or reinsurance;  
 22 (B) the conduct of business activities by an insurer or another  
 23 entity regulated under IC 27; or  
 24 (C) the formation, acquisition, or dissolution of an insurer or  
 25 another entity regulated under IC 27;  
 26 commits insurance fraud. Except as provided in subsection (b),  
 27 insurance fraud is a Class D felony.  
 28 (b) An offense described in subsection (a) is a Class C felony if:  
 29 (1) the person who commits the offense has a prior unrelated  
 30 conviction under this section; or  
 31 (2) the:  
 32 (A) value of property, services, or other benefits obtained or  
 33 attempted to be obtained by the person as a result of the  
 34 offense; or  
 35 (B) economic loss suffered by another person as a result of the  
 36 offense;  
 37 is at least ~~two thousand five hundred dollars (\$2,500)~~ **fifty**  
 38 **thousand dollars (\$50,000)**.  
 39 (c) A person who knowingly and with intent to defraud makes a  
 40 material misstatement in support of an application for the issuance of  
 41 an insurance policy commits insurance application fraud, a Class A  
 42 misdemeanor.

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1 SECTION 60. IC 35-43-5-5 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) A person who  
 3 knowingly or intentionally issues or delivers a check, a draft, or an  
 4 order on a credit institution for the payment of or to acquire money or  
 5 other property, knowing that it will not be paid or honored by the credit  
 6 institution upon presentment in the usual course of business, commits  
 7 check deception, a Class A misdemeanor. However, the offense is a  
 8 Class D felony if the amount of the check, draft, or order is at least ~~two~~  
 9 **thousand five hundred seven hundred fifty** dollars (~~\$2,500~~) **and the**  
 10 **property acquired by the person was a motor vehicle: (\$750).**

11 (b) An unpaid and dishonored check, a draft, or an order that has the  
 12 drawee's refusal to pay and reason printed, stamped, or written on or  
 13 attached to it constitutes prima facie evidence:

- 14 (1) that due presentment of it was made to the drawee for payment  
 15 and dishonor thereof; and
- 16 (2) that it properly was dishonored for the reason stated.

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

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

- 28 (1) Name and residence, business, or mailing address of the  
 29 maker.
- 30 (2) Motor vehicle operator's license number, Social Security  
 31 number, home telephone number, or place of employment of the  
 32 maker.

33 (e) It is a defense under subsection (a) if a person who:  
 34 (1) has an account with a credit institution but does not have  
 35 sufficient funds in that account; and  
 36 (2) issues or delivers a check, a draft, or an order for payment on  
 37 that credit institution;

38 pays the payee or holder the amount due, together with protest fees and  
 39 any service fee or charge, which may not exceed the greater of  
 40 twenty-seven dollars and fifty cents (\$27.50) or five percent (5%) (but  
 41 not more than two hundred fifty dollars (\$250)) of the amount due, that  
 42 may be charged by the payee or holder, within ten (10) days after the

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1 date of mailing by the payee or holder of notice to the person that the  
2 check, draft, or order has not been paid by the credit institution. Notice  
3 sent in the manner set forth in IC 26-2-7-3 constitutes notice to the  
4 person that the check, draft, or order has not been paid by the credit  
5 institution. The payee or holder of a check, draft, or order that has been  
6 dishonored incurs no civil or criminal liability for sending notice under  
7 this subsection.

- 8 (f) A person does not commit a crime under subsection (a) when:
  - 9 (1) the payee or holder knows that the person has insufficient
  - 10 funds to ensure payment or that the check, draft, or order is
  - 11 postdated; or
  - 12 (2) insufficiency of funds or credit results from an adjustment to
  - 13 the person's account by the credit institution without notice to the
  - 14 person.

15 SECTION 61. IC 35-43-5-7 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) A person who  
17 knowingly or intentionally:

- 18 (1) obtains public relief or assistance by means of impersonation,  
19 fictitious transfer, false or misleading oral or written statement,  
20 ~~fraudulent~~ **fraudulent** conveyance, or other fraudulent means;
- 21 (2) acquires, possesses, uses, transfers, sells, trades, issues, or  
22 disposes of:
  - 23 (A) an authorization document to obtain public relief or  
24 assistance; or
  - 25 (B) public relief or assistance;
- 26 except as authorized by law;
- 27 (3) uses, transfers, acquires, issues, or possesses a blank or  
28 incomplete authorization document to participate in public relief  
29 or assistance programs, except as authorized by law;
- 30 (4) counterfeits or alters an authorization document to receive  
31 public relief or assistance, or knowingly uses, transfers, acquires,  
32 or possesses a counterfeit or altered authorization document to  
33 receive public relief or assistance; or
- 34 (5) conceals information for the purpose of receiving public relief  
35 or assistance to which ~~he~~ **the person** is not entitled;

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

- 38 (b) The offense is:
  - 39 (1) a Class D felony if
    - 40 ~~(A)~~ the amount of public relief or assistance involved is more
    - 41 than ~~two hundred fifty dollars (\$250)~~ **seven hundred fifty**
    - 42 **dollars (\$750)** but less than ~~two thousand five hundred dollars~~

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1           ~~(\$2,500); or~~  
2           ~~(B) the amount involved is not more than two hundred fifty~~  
3           ~~dollars (\$250) and the person has a prior conviction of welfare~~  
4           ~~fraud under this section; **fifty thousand dollars (\$50,000);**~~  
5           and

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

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

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

17          SECTION 62. IC 35-43-5-7.1, AS AMENDED BY P.L.1-2006,  
18          SECTION 531, IS AMENDED TO READ AS FOLLOWS  
19          [EFFECTIVE JULY 1, 2011]: Sec. 7.1. (a) Except as provided in  
20          subsection (b), a person who knowingly or intentionally:

- 21           (1) files a Medicaid claim, including an electronic claim, in  
22           violation of IC 12-15;
- 23           (2) obtains payment from the Medicaid program under IC 12-15  
24           by means of a false or misleading oral or written statement or  
25           other fraudulent means;
- 26           (3) acquires a provider number under the Medicaid program  
27           except as authorized by law;
- 28           (4) alters with the intent to defraud or falsifies documents or  
29           records of a provider (as defined in 42 CFR 1000.30) that are  
30           required to be kept under the Medicaid program; or
- 31           (5) conceals information for the purpose of applying for or  
32           receiving unauthorized payments from the Medicaid program;
- 33          commits Medicaid fraud, a Class D felony.

34          (b) The offense described in subsection (a) is a Class C felony if the  
35          fair market value of the offense is at least ~~one hundred thousand dollars~~  
36          ~~(\$100,000).~~ **fifty thousand dollars (\$50,000).**

37          SECTION 63. IC 35-43-5-7.2 IS AMENDED TO READ AS  
38          FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7.2. (a) Except as  
39          provided in subsection (b), a person who knowingly or intentionally:

- 40           (1) files a children's health insurance program claim, including an  
41           electronic claim, in violation of IC 12-17.6;
- 42           (2) obtains payment from the children's health insurance program

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- 1 under IC 12-17.6 by means of a false or misleading oral or written
- 2 statement or other fraudulent means;
- 3 (3) acquires a provider number under the children's health
- 4 insurance program except as authorized by law;
- 5 (4) alters with intent to defraud or falsifies documents or records
- 6 of a provider (as defined in 42 CFR 1002.301) that are required
- 7 to be kept under the children's health insurance program; or
- 8 (5) conceals information for the purpose of applying for or
- 9 receiving unauthorized payments from the children's health
- 10 insurance program;

11 commits insurance fraud, a Class D felony.

12 (b) The offense described in subsection (a) is a Class C felony if the  
13 fair market value of the offense is at least ~~one hundred thousand dollars~~  
14 ~~(\$100,000).~~ **fifty thousand dollars (\$50,000).**

15 SECTION 64. IC 35-43-5-8, AS AMENDED BY P.L.57-2006,  
16 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2011]: Sec. 8. (a) A person who knowingly executes, or  
18 attempts to execute, a scheme or artifice:

- 19 (1) to defraud a state or federally chartered or federally insured
- 20 financial institution; or
- 21 (2) to obtain any of the money, funds, credits, assets, securities,
- 22 or other property owned by or under the custody or control of a
- 23 state or federally chartered or federally insured financial
- 24 institution by means of false or fraudulent pretenses,
- 25 representations, or promises;

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

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

- 31 (1) an institution with accounts insured by the Federal Deposit
- 32 Insurance Corporation;
- 33 (2) a credit union with accounts insured by the National Credit
- 34 Union Administration Board;
- 35 (3) a federal home loan bank or a member, as defined in Section
- 36 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), as in
- 37 effect on December 31, 1990, of the Federal Home Loan Bank
- 38 System; or
- 39 (4) a bank, banking association, land bank, intermediate credit
- 40 bank, bank for cooperatives, production credit association, land
- 41 bank association, mortgage association, trust company, savings
- 42 bank, or other banking or financial institution organized or

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1 operating under the laws of the United States or of the state.  
2 The term does not include a lender licensed under IC 24-4.5.

3 SECTION 65. IC 35-43-5-12 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) As used in this  
5 section, "financial institution" refers to a state or federally chartered  
6 bank, savings bank, savings association, or credit union.

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

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

11 (A) knowing that the check, draft, order, or electronic debit  
12 will not be paid or honored by the financial institution upon  
13 presentment in the usual course of business;

14 (B) using false or altered evidence of identity or residence;

15 (C) using a false or an altered account number; or

16 (D) using a false or an altered check, draft, order, or electronic  
17 instrument;

18 (2) by:

19 (A) depositing the minimum initial deposit required to open an  
20 account; and

21 (B) either making no additional deposits or making insufficient  
22 additional deposits to insure debits to the account; or

23 (3) by opening accounts with more than one (1) financial  
24 institution in either a consecutive or concurrent time period;

25 commits check fraud, a Class D felony. However, the offense is a Class  
26 C felony if the person has a prior unrelated conviction under this  
27 section or the aggregate amount of property obtained is at least  
28 ~~twenty-five thousand dollars (\$25,000)~~ **fifty thousand dollars**  
29 **(\$50,000)**.

30 SECTION 66. IC 35-48-4-1, AS AMENDED BY P.L.151-2006,  
31 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2011]: Sec. 1. (a) A person who:

33 ~~(1) knowingly or intentionally:~~

34 ~~(A) manufactures;~~

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

36 ~~(C) delivers; or~~

37 ~~(D) finances the delivery of;~~

38 ~~cocaine or a narcotic drug, pure or adulterated; classified in~~  
39 ~~schedule I or II; or~~

40 ~~(2) possesses; with intent to:~~

41 ~~(A) manufacture;~~

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

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1           (C) deliver; or  
2           (D) finance the delivery of;  
3 cocaine or a narcotic drug, pure or adulterated, classified in  
4 schedule I or II;  
5 commits dealing in cocaine or a narcotic drug, a Class B felony, except  
6 as provided in subsection (b).  
7 (b) The offense is a Class A felony if:  
8 (1) the amount of the drug involved weighs three (3) grams or  
9 more;  
10 (2) the person:  
11 (A) delivered; or  
12 (B) financed the delivery of;  
13 the drug to a person under eighteen (18) years of age at least three  
14 (3) years junior to the person; or  
15 (3) the person manufactured, delivered, or financed the delivery  
16 of the drug:  
17 (A) on a school bus; or  
18 (B) in, on, or within one thousand (1,000) feet of:  
19 (i) school property;  
20 (ii) a public park;  
21 (iii) a family housing complex; or  
22 (iv) a youth program center.  
23 (1) knowingly or intentionally:  
24 (A) delivers; or  
25 (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) deliver; or  
32 (D) 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 C felony,  
36 except as provided in subsection (b) or (c).  
37 (b) The offense is a Class B felony if:  
38 (1) the amount of the drug involved is three (3) grams or  
39 more, but less than ten (10) grams;  
40 (2) the person manufactured or financed the manufacture of  
41 the drug;  
42 (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; or
- 4 (4) the person delivered or financed the delivery of the drug;
- 5 (A) on a school bus;
- 6 (B) in, on, or within one thousand (1,000) feet of:
- 7 (i) school property;
- 8 (ii) a public park;
- 9 (iii) a family housing complex; or
- 10 (iv) a youth program center; or
- 11 (C) the person delivered the drug while possessing a
- 12 firearm (as defined in IC 35-47-1-5).
- 13 (c) The offense is a Class A felony if:
- 14 (1) the amount of the drug involved is ten (10) grams or more;
- 15 or
- 16 (2) the:
- 17 (A) amount of the drug involved is three (3) grams or
- 18 more; and
- 19 (B) person:
- 20 (i) manufactured or financed the manufacture of the
- 21 drug; or
- 22 (ii) delivered or financed the delivery of the drug on a
- 23 school bus, or in, on, or within one thousand (1,000) feet
- 24 of school property, a public park, a family housing
- 25 complex, or a youth program center, or the person
- 26 delivered the drug while possessing a firearm (as defined
- 27 in IC 35-47-1-5).
- 28 SECTION 67. IC 35-48-4-1.1, AS ADDED BY P.L.151-2006,
- 29 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2011]: Sec. 1.1. (a) A person who:
- 31 (1) knowingly or intentionally:
- 32 (A) manufactures;
- 33 (B) finances the manufacture of;
- 34 (C) delivers; or
- 35 (D) finances the delivery of;
- 36 methamphetamine, pure or adulterated; or
- 37 (2) possesses, with intent to:
- 38 (A) manufacture;
- 39 (B) finance the manufacture of;
- 40 (C) deliver; or
- 41 (D) finance the delivery of;
- 42 methamphetamine, pure or adulterated;

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1 commits dealing in methamphetamine, a Class B felony, except as  
2 provided in subsection (b):

3 (b) The offense is a Class A felony if:

4 (1) the amount of the drug involved weighs three (3) grams or  
5 more;

6 (2) the person:

7 (A) delivered; or

8 (B) financed the delivery of;

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

11 (3) the person manufactured, delivered, or financed the delivery  
12 of the drug:

13 (A) on a school bus; or

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

15 (i) school property;

16 (ii) a public park;

17 (iii) a family housing complex; or

18 (iv) a youth program center.

19 (1) knowingly or intentionally:

20 (A) delivers; or

21 (B) finances the delivery of;

22 methamphetamine, pure or adulterated; or

23 (2) possesses, with intent to:

24 (A) manufacture;

25 (B) finance the manufacture of;

26 (C) deliver; or

27 (D) finance the delivery of;

28 methamphetamine, pure or adulterated;

29 commits dealing in methamphetamine, a Class C felony, except as  
30 provided in subsection (b) or (c).

31 (b) The offense is a Class B felony if:

32 (1) the amount of the drug involved is three (3) grams or  
33 more, but less than ten (10) grams;

34 (2) the person manufactured or financed the manufacture of  
35 the drug;

36 (3) the person;

37 (A) delivered; or

38 (B) financed the delivery of;

39 the drug to a person under eighteen (18) years of age; or

40 (4) the person delivered or financed the delivery of the drug:

41 (A) on a school bus;

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

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- 1 (i) school property;
- 2 (ii) a public park;
- 3 (iii) a family housing complex; or
- 4 (iv) a youth program center; or
- 5 (C) the person delivered the drug while possessing a
- 6 firearm (as defined in IC 35-47-1-5).
- 7 (c) The offense is a Class A felony if:
- 8 (1) the amount of the drug involved is ten (10) grams or more;
- 9 (2) the:
- 10 (A) amount of the drug involved is three (3) grams or
- 11 more; and
- 12 (B) person delivered or financed the delivery of the drug
- 13 on a school bus, or in, on, or within one thousand (1,000)
- 14 feet of school property, a public park, a family housing
- 15 complex, or a youth program center, or the person
- 16 delivered the drug while possessing a firearm (as defined
- 17 in IC 35-47-1-5); or
- 18 (3) the person manufactured or financed the manufacture of
- 19 the drug on a school bus, or in, on, or within one thousand
- 20 (1,000) feet of school property, a public park, a family housing
- 21 complex, or a youth program center, or a dwelling; or
- 22 (4) the person manufactured the drug in the physical presence
- 23 of a child.
- 24 SECTION 68. IC 35-48-4-2 IS AMENDED TO READ AS
- 25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person who:
- 26 (1) knowingly or intentionally:
- 27 (A) manufactures;
- 28 (B) finances the manufacture of;
- 29 (C) delivers; or
- 30 (D) finances the delivery of;
- 31 a controlled substance, pure or adulterated, classified in schedule
- 32 I, H, or HH, except marijuana, hash oil, or hashish; or
- 33 (2) possesses, with intent to:
- 34 (A) manufacture;
- 35 (B) finance the manufacture of;
- 36 (C) deliver; or
- 37 (D) finance the delivery of;
- 38 a controlled substance, pure or adulterated, classified in schedule
- 39 I, H, or HH, except marijuana, hash oil, or hashish;
- 40 commits dealing in a schedule I, H, or HH controlled substance; a Class
- 41 B felony; except as provided in subsection (b):
- 42 (b) The offense is a Class A felony if:

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- 1 (1) the person:
- 2 (A) delivered; or
- 3 (B) financed the delivery of;
- 4 the substance to a person under eighteen (18) years of age at least
- 5 three (3) years junior to the person; or
- 6 (2) the person delivered or financed the delivery of the substance:
- 7 (A) on a school bus; or
- 8 (B) in, on, or within one thousand (1,000) feet of:
- 9 (i) school property;
- 10 (ii) a public park;
- 11 (iii) a family housing complex; or
- 12 (iv) a youth program center.
- 13 (1) knowingly or intentionally:
- 14 (A) manufactures;
- 15 (B) finances the manufacture of;
- 16 (C) delivers; or
- 17 (D) finances the delivery of;
- 18 a controlled substance, pure or adulterated, classified in
- 19 schedule I, II, or III, except marijuana, hash oil, or hashish;
- 20 or
- 21 (2) possesses with intent to:
- 22 (A) manufacture;
- 23 (B) finance the manufacture of;
- 24 (C) deliver; or
- 25 (D) finance the delivery of;
- 26 a controlled substance, pure or adulterated, classified in
- 27 schedule I, II, or III, except marijuana, hash oil, or hashish;
- 28 commits dealing in a schedule I, II, or III controlled substance, a
- 29 Class C felony, except as provided in subsection (b), or (c).
- 30 (b) The offense is a Class B felony if:
- 31 (1) the amount of the drug is three (3) grams or more but less
- 32 than then (10) grams;
- 33 (2) the person manufactured the substance;
- 34 (3) the person delivered or financed the delivery of the
- 35 substance to a person under eighteen (18) years of age;
- 36 (4) the person delivered or financed the delivery of the
- 37 substance:
- 38 (A) on a school bus; or
- 39 (B) in, on, or within one thousand (1,000) feet of:
- 40 (i) school property;
- 41 (ii) a public park;
- 42 (iii) a family housing complex; or

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- 1 (iv) a youth program center; or  
 2 (5) the person delivered the substance while possessing a  
 3 firearm (as defined in IC 35-47-1-5).  
 4 (c) The offense is a Class A felony if:  
 5 (1) the amount of the substance is ten (10) grams or more; or  
 6 (2) the person:  
 7 (A) manufactured or financed the manufacture of the  
 8 substance; or  
 9 (B) delivered or financed the delivery of the drug on a  
 10 school bus, or in, on, or within one thousand (1,000) feet of  
 11 school property, a public park, a family housing complex,  
 12 or a youth program center, or the person delivered the  
 13 drug while possessing a firearm (as defined in  
 14 IC 35-47-1-5).

15 SECTION 69. IC 35-48-4-6, AS AMENDED BY P.L.151-2006,  
 16 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2011]: Sec. 6. (a) A person who, without a valid prescription  
 18 or order of a practitioner acting in the course of the practitioner's  
 19 professional practice, knowingly or intentionally possesses cocaine  
 20 (pure or adulterated) or a narcotic drug (pure or adulterated) classified  
 21 in schedule I or II, commits possession of cocaine or a narcotic drug,  
 22 a Class D felony, except as provided in subsection (b) or (c).

23 (b) The offense is:

24 (1) a Class C felony if:

25 (A) the amount of the drug involved (pure or adulterated)  
 26 weighs three (3) grams or more; or

27 (B) the person was also in possession of a firearm (as defined  
 28 in IC 35-47-1-5);

29 (2) a Class B felony if the person in possession of the cocaine or  
 30 narcotic drug possesses less than three (3) grams of pure or  
 31 adulterated cocaine or a narcotic drug:

32 (A) on a school bus; or

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

34 (i) school property;

35 (ii) a public park;

36 (iii) a family housing complex; or

37 (iv) a youth program center; and

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

41 (A) on a school bus; or

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

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- 1 (i) school property;
- 2 (ii) a public park;
- 3 (iii) a family housing complex; or
- 4 (iv) a youth program center.
- 5 **(b) The offense is a Class C felony if:**
- 6 **(1) the amount of the drug involved, pure or adulterated,**
- 7 **weighs three (3) grams or more but less than ten (10) grams;**
- 8 **or**
- 9 **(2) the person possesses the drug;**
- 10 **(A) on a school bus;**
- 11 **(B) in, on, or within one thousand (1,000) feet of:**
- 12 **(i) school property;**
- 13 **(ii) a public park;**
- 14 **(iii) a family housing complex; or**
- 15 **(iv) a youth program center; or**
- 16 **(C) while the person was also in possession of a firearm (as**
- 17 **defined in IC 35-47-1-5).**
- 18 **(c) The offense is a Class B felony if the amount of the drug**
- 19 **involved, pure or adulterated, weighs ten (10) grams or more.**
- 20 SECTION 70. IC 35-48-4-6.1, AS ADDED BY P.L.151-2006,
- 21 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 22 JULY 1, 2011]: Sec. 6.1. (a) A person who, without a valid prescription
- 23 or order of a practitioner acting in the course of the practitioner's
- 24 professional practice, knowingly or intentionally possesses
- 25 methamphetamine (pure or adulterated) commits possession of
- 26 methamphetamine, a Class D felony, except as provided in subsection
- 27 (b) or (c).
- 28 (b) The offense is:
- 29 (1) a Class E felony if:
- 30 (A) the amount of the drug involved (pure or adulterated)
- 31 weighs three (3) grams or more; or
- 32 (B) the person was also in possession of a firearm (as defined
- 33 in IC 35-47-1-5);
- 34 (2) a Class B felony if the person in possession of the
- 35 methamphetamine possesses less than three (3) grams of pure or
- 36 adulterated methamphetamine:
- 37 (A) on a school bus; or
- 38 (B) in, on, or within one thousand (1,000) feet of:
- 39 (i) school property;
- 40 (ii) a public park;
- 41 (iii) a family housing complex; or
- 42 (iv) a youth program center; and

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1           (3) a Class A felony if the person possesses the methamphetamine  
2           in an amount (pure or adulterated) weighing at least three (3)  
3           grams:  
4           (A) on a school bus; or  
5           (B) in, on, or within one thousand (1,000) feet of:  
6           (i) school property;  
7           (ii) a public park;  
8           (iii) a family housing complex; or  
9           (iv) a youth program center.  
10          (b) The offense is a Class C felony if:  
11           (1) the amount of the drug involved, pure or adulterated,  
12           weighs three (3) grams or more but less than ten (10) grams;  
13           or  
14           (2) the person possesses the drug;  
15           (A) on a school bus;  
16           (B) in, on, or within one thousand (1,000) 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           (C) while the person was also in possession of a firearm (as  
22           defined in IC 35-47-1-5).  
23          (c) The offense is a Class B felony if the amount of the drug  
24          involved, pure or adulterated, weighs ten (10) grams or more.  
25          SECTION 71. IC 35-48-4-11 IS AMENDED TO READ AS  
26          FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. A person who:  
27           (1) knowingly or intentionally possesses (pure or adulterated)  
28           marijuana, hash oil, or hashish;  
29           (2) knowingly or intentionally grows or cultivates marijuana; or  
30           (3) knowing that marijuana is growing on his premises, fails to  
31           destroy the marijuana plants;  
32          commits possession of marijuana, hash oil, or hashish, a Class A  
33          misdemeanor. However, the offense is a Class D felony (†) if the  
34          amount involved is more than thirty (30) grams of marijuana or two (2)  
35          grams of hash oil or hashish. or (†) if the person has a prior conviction  
36          of an offense involving marijuana, hash oil, or hashish.  
37          SECTION 72. IC 35-50-2-2, AS AMENDED BY P.L.64-2008,  
38          SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
39          JULY 1, 2011]: Sec. 2. (a) The court may suspend any part of a  
40          sentence for a felony, except as provided in this section. or in section  
41          2.1 of this chapter.  
42          (b) Except as provided in subsection (i), with respect to the

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1 following crimes listed in this subsection, the court may suspend only  
2 that part of the sentence that is in excess of the minimum sentence,  
3 unless the court has approved placement of the offender in a forensic  
4 diversion program under IC 11-12-3.7:

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

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

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

- 23 ~~(4)~~ **(3)** The felony committed was:  
24 (A) murder (IC 35-42-1-1);  
25 (B) battery (IC 35-42-2-1) with a deadly weapon or battery  
26 causing death;  
27 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;  
28 (D) kidnapping (IC 35-42-3-2);  
29 (E) confinement (IC 35-42-3-3) with a deadly weapon;  
30 (F) rape (IC 35-42-4-1) as a Class A felony;  
31 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A  
32 felony;  
33 (H) except as provided in subsection (i), child molesting  
34 (IC 35-42-4-3) as a Class A or Class B felony, unless:  
35 (i) the felony committed was child molesting as a Class B  
36 felony;  
37 (ii) the victim was not less than twelve (12) years old at the  
38 time the offense was committed;  
39 (iii) the person is not more than four (4) years older than the  
40 victim, or more than five (5) years older than the victim if  
41 the relationship between the person and the victim was a  
42 dating relationship or an ongoing personal relationship (not

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- 1 including a family relationship);
- 2 (iv) the person did not have a position of authority or
- 3 substantial influence over the victim; and
- 4 (v) the person has not committed another sex offense (as
- 5 defined in IC 11-8-8-5.2) (including a delinquent act that
- 6 would be a sex offense if committed by an adult) against any
- 7 other person;
- 8 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
- 9 with a deadly weapon;
- 10 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 11 injury;
- 12 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
- 13 or with a deadly weapon;
- 14 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
- 15 weapon;
- 16 (M) escape (IC 35-44-3-5) with a deadly weapon;
- 17 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 18 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the
- 19 court finds the person possessed a firearm (as defined in
- 20 IC 35-47-1-5) at the time of the offense, or the person
- 21 delivered or intended to deliver to a person under eighteen
- 22 (18) years of age at least three (3) years junior to the person
- 23 and was on a school bus or within one thousand (1,000) feet
- 24 of:
- 25 (i) school property;
- 26 (ii) a public park;
- 27 (iii) a family housing complex; or
- 28 (iv) a youth program center;
- 29 (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court
- 30 finds the person possessed a firearm (as defined in
- 31 IC 35-47-1-5) at the time of the offense, or the person
- 32 delivered or intended to deliver the methamphetamine pure or
- 33 adulterated to a person under eighteen (18) years of age at
- 34 least three (3) years junior to the person and was on a school
- 35 bus or within one thousand (1,000) feet of:
- 36 (i) school property;
- 37 (ii) a public park;
- 38 (iii) a family housing complex; or
- 39 (iv) a youth program center;
- 40 (Q) dealing in a schedule I, II, or III controlled substance
- 41 (IC 35-48-4-2) if the court finds the person possessed a firearm
- 42 (as defined in IC 35-47-1-5) at the time of the offense, or the

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1 person delivered or intended to deliver to a person under  
 2 eighteen (18) years of age at least three (3) years junior to the  
 3 person and was on a school bus or within one thousand (1,000)  
 4 feet of:

- 5 (i) school property;
- 6 (ii) a public park;
- 7 (iii) a family housing complex; or
- 8 (iv) a youth program center;

9 (R) an offense under IC 9-30-5 (operating a vehicle while  
 10 intoxicated) and the person who committed the offense has  
 11 accumulated at least two (2) prior unrelated convictions under  
 12 IC 9-30-5;

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

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

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

17 (c) Except as provided in subsection (e), whenever the court  
 18 suspends a sentence for a felony, it shall place the person on probation  
 19 under IC 35-38-2 for a fixed period to end not later than the date that  
 20 the maximum sentence that may be imposed for the felony will expire.

21 (d) The minimum sentence for a person convicted of voluntary  
 22 manslaughter may not be suspended unless the court finds at the  
 23 sentencing hearing that the crime was not committed by means of a  
 24 deadly weapon.

25 (e) Whenever the court suspends that part of the sentence of a sex  
 26 or violent offender (as defined in IC 11-8-8-5) that is suspendible under  
 27 subsection (b), the court shall place the sex or violent offender on  
 28 probation under IC 35-38-2 for not more than ten (10) years.

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

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

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

37 (i) If a person is:

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

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

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1 SECTION 73. IC 35-50-2-8, AS AMENDED BY P.L.71-2005,  
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 8. (a) Except as otherwise provided in this section,  
4 the state may seek to have a person sentenced as a habitual offender for  
5 any felony by alleging, on a page separate from the rest of the charging  
6 instrument, that the person has accumulated two (2) prior unrelated  
7 felony convictions.

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

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

13 (2) the offense is an offense under IC 9-30-10-16 or  
14 IC 9-30-10-17. **or**

15 ~~(3) all of the following apply:~~

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

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

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

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

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

23 ~~(iii) dealing in a schedule I, H, III controlled substance~~  
24 ~~(IC 35-48-4-2);~~

25 ~~(iv) dealing in a schedule IV controlled substance~~  
26 ~~(IC 35-48-4-3); and~~

27 ~~(v) dealing in a schedule V controlled substance~~  
28 ~~(IC 35-48-4-4);~~

29 ~~does not exceed one (1).~~

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

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

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

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

39 (1) the conviction has been set aside; **or**

40 (2) the conviction is one for which the person has been pardoned.

41 **or**

42 ~~(3) all of the following apply:~~

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- 1           (A) The offense is an offense under IC 16-42-19 or
- 2           IC 35-48-4.
- 3           (B) The offense is not listed in section 2(b)(4) of this chapter.
- 4           (C) The total number of unrelated convictions that the person
- 5           has for:
- 6               (i) dealing in or selling a legend drug under IC 16-42-19-27;
- 7               (ii) dealing in cocaine or a narcotic drug (IC 35-48-4-1);
- 8               (iii) dealing in a schedule I, H, HI controlled substance
- 9               (IC 35-48-4-2);
- 10              (iv) dealing in a schedule IV controlled substance
- 11              (IC 35-48-4-3); and
- 12              (v) dealing in a schedule V controlled substance
- 13              (IC 35-48-4-4);
- 14           does not exceed one (1).

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

25           (f) If the person was convicted of the felony in a jury trial, the jury  
 26           shall reconvene for the sentencing hearing. If the trial was to the court  
 27           or the judgment was entered on a guilty plea, the court alone shall  
 28           conduct the sentencing hearing under IC 35-38-1-3.

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

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

38           SECTION 74. IC 35-50-2-10, AS AMENDED BY P.L.1-2006,  
 39           SECTION 551, IS AMENDED TO READ AS FOLLOWS  
 40           [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) As used in this section:

- 41               (1) "Drug" means a drug or a controlled substance (as defined in
- 42               IC 35-48-1).

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1 (2) "Substance offense" means a Class A misdemeanor or a felony  
 2 in which the possession, use, abuse, delivery, transportation, or  
 3 manufacture of alcohol or drugs is a material element of the  
 4 crime. The term includes an offense under IC 9-30-5 and an  
 5 offense under IC 9-11-2 (before its repeal).

6 (b) The state may seek to have a person sentenced as a habitual  
 7 substance offender for any substance offense by alleging, on a page  
 8 separate from the rest of the charging instrument, that the person has  
 9 accumulated two (2) prior unrelated substance offense convictions.

10 (c) After a person has been convicted and sentenced for a substance  
 11 offense committed after sentencing for a prior unrelated substance  
 12 offense conviction, the person has accumulated two (2) prior unrelated  
 13 substance offense convictions. However, a conviction does not count  
 14 for purposes of this subsection if:

15 (1) it has been set aside; or

16 (2) it is a conviction for which the person has been pardoned.

17 (d) If the person was convicted of the substance offense in a jury  
 18 trial, the jury shall reconvene for the sentencing hearing. If the trial was  
 19 to the court, or the judgment was entered on a guilty plea, the court  
 20 alone shall conduct the sentencing hearing, under IC 35-38-1-3.

21 (e) A person is a habitual substance offender if the jury (if the  
 22 hearing is by jury) or the court (if the hearing is to the court alone)  
 23 finds that the state has proved beyond a reasonable doubt that the  
 24 person had accumulated two (2) prior unrelated substance offense  
 25 convictions.

26 (f) The court shall sentence a person found to be a habitual  
 27 substance offender to an additional fixed term of at least three (3) years  
 28 but not more than eight (8) years imprisonment, to be added to the term  
 29 of imprisonment imposed under IC 35-50-2 or IC 35-50-3. If the court  
 30 finds that

31 ~~(1)~~ three (3) years or more have elapsed since the date the person  
 32 was discharged from probation, imprisonment, or parole  
 33 (whichever is later) for the last prior unrelated substance offense  
 34 conviction and the date the person committed the substance  
 35 offense for which the person is being sentenced as a habitual  
 36 substance offender, or

37 ~~(2)~~ all of the substance offenses for which the person has been  
 38 convicted are substance offenses under IC ~~16-42-19~~ or  
 39 IC ~~35-48-4~~; the person has not been convicted of a substance  
 40 offense listed in section 2(b)(4) of this chapter; and the total  
 41 number of convictions that the person has for:

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

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- 1           ~~(B) dealing in cocaine or a narcotic drug (IC 35-48-4-1);~~  
 2           ~~(C) dealing in a schedule I, H, or III controlled substance~~  
 3           ~~(IC 35-48-4-2);~~  
 4           ~~(D) dealing in a schedule IV controlled substance~~  
 5           ~~(IC 35-48-4-3); and~~  
 6           ~~(E) dealing in a schedule V controlled substance~~  
 7           ~~(IC 35-48-4-4);~~

8           does not exceed one (1);  
 9           then the court may reduce the additional fixed term. However, the court  
 10          may not reduce the additional fixed term to less than one (1) year.

11          (g) If a reduction of the additional year fixed term is authorized  
 12          under subsection (f), the court may also consider the aggravating ~~or~~  
 13          circumstances in IC 35-38-1-7.1(a) and the mitigating circumstances  
 14          in IC 35-38-1-7.1(b) to:

- 15           (1) decide the issue of granting a reduction; or  
 16           (2) determine the number of years, if any, to be subtracted under  
 17           subsection (f).

18          SECTION 75. IC 35-50-2-14, AS AMENDED BY P.L.125-2009,  
 19          SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20          JULY 1, 2011]: Sec. 14. (a) As used in this section, "sex offense"  
 21          means a felony conviction:

- 22           (1) under IC 35-42-4-1 through IC 35-42-4-9 or under  
 23           IC 35-46-1-3;  
 24           (2) for an attempt or conspiracy to commit an offense described  
 25           in subdivision (1); or  
 26           (3) for an offense under the laws of another jurisdiction, including  
 27           a military court, that is substantially similar to an offense  
 28           described in subdivision (1) **or (2).**

29          (b) The state may seek to have a person sentenced as a repeat sexual  
 30          offender for a sex offense described in subsection (a)(1) or (a)(2) by  
 31          alleging, on a page separate from the rest of the charging instrument,  
 32          that the person has accumulated one (1) prior unrelated felony  
 33          conviction for a sex offense described in subsection (a).

34          (c) After a person has been convicted and sentenced for a felony  
 35          described in subsection (a)(1) or (a)(2) after having been sentenced for  
 36          a prior unrelated sex offense described in subsection (a), the person has  
 37          accumulated one (1) prior unrelated felony sex offense conviction.  
 38          However, a conviction does not count for purposes of this subsection,  
 39          if:

- 40           (1) it has been set aside; or  
 41           (2) it is a conviction for which the person has been pardoned.  
 42          (d) If the person was convicted of the sex offense in a jury trial, the

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1 jury shall reconvene to hear evidence in the enhancement hearing. If  
2 the trial was to the court, or the judgment was entered on a guilty plea,  
3 the court alone shall hear evidence in the enhancement hearing.

4 (e) A person is a repeat sexual offender if the jury (if the hearing is  
5 by 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 one (1) prior unrelated felony sex offense conviction.

8 (f) The court may sentence a person found to be a repeat sexual  
9 offender to an additional fixed term that is the advisory sentence for the  
10 underlying offense. However, the additional sentence may not exceed  
11 ten (10) years.

12 SECTION 76. IC 36-2-21 IS ADDED TO THE INDIANA CODE  
13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2011]:

15 **Chapter 21. County Offender Fund**

16 **Sec. 1. (a) A county may establish, by resolution, a county**  
17 **offender fund to receive money that may be used to defray the**  
18 **expenses of incarcerating, supervising, or treating offenders**  
19 **housed in the county, in particular those offenders housed locally**  
20 **who may have previously been transferred to the department of**  
21 **correction.**

22 (b) Except as provided in subsection (c), money in the fund may  
23 be spent only under an appropriation from the county fiscal body.  
24 In appropriating money from the fund, the fiscal body shall give  
25 first priority to programs that defray the expense of housing an  
26 offender in jail, second priority to probation and community  
27 corrections programs, and third priority to problem solving courts  
28 and work release programs.

29 (c) No money may be disbursed from this fund after July 1 of  
30 each year unless the Indiana office of technology has certified  
31 under IC 4-13.1-2-2 that the judicial technology and automation  
32 project is sharing information with independent providers.

33 SECTION 77. P.L.182-2009(ss), SECTION 493 IS AMENDED TO  
34 READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: SECTION 493.

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

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

42 (c) For the 2011 legislative interim, the commission shall study

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1 **truth in sentencing, the department of correction's use of good time**  
 2 **credit and earned credit time, and felony classifications.**

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

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

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

7 ~~(2) (1) April, May, June, July, August, and September of 2010;~~  
 8 and

9 ~~(3) (2) June, July, August, and September, and October~~ of 2011.

10 ~~(e)~~ **(f)** The commission consists of seventeen (17) members  
 11 appointed as follows:

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

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

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

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

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

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

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

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

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

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

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

42 ~~(h)~~ **(i)** A legislative member of the commission may be removed at

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1 any time by the appointing authority who appointed the legislative  
2 member.

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

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

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

- 11 (1) minutes of each meeting; and
- 12 (2) the final report.

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

- 15 (1) advise the commission on legal matters, criminal procedures,  
16 and legal research; and
- 17 (2) draft potential legislation.

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

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

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

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

31 SECTION 78. [EFFECTIVE JULY 1, 2011] **(a) The legislative**  
32 **council is urged to assign to the criminal law and sentencing policy**  
33 **study committee the topic of developing a criminal information**  
34 **packet that would contain all relevant information that pertains to**  
35 **an offender's dangerousness or lack of dangerousness, including:**

- 36 **(1) the original charges;**
- 37 **(2) the terms of any plea agreement;**
- 38 **(3) whether the jury found the offender guilty of lesser**  
39 **included offenses; and**
- 40 **(4) any other information that would allow a more accurate**  
41 **assessment of an offender's character.**

42 **(b) This SECTION expires January 1, 2012.**

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1 SECTION 79. THE FOLLOWING ARE REPEALED [EFFECTIVE  
2 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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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 561, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 561 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 2.

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Report of the President  
Pro Tempore

Madam President: Pursuant to Senate Rule 68(b), I hereby report that, subsequent to the adoption of the Corrections, Criminal, and Civil Matters Committee Report on February 15, 2011, Senate Bill 561 was reassigned to the Committee on Appropriations.

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