

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:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 4-13.1-2-2, AS AMENDED BY P.L.2-2007,
3 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2011]: Sec. 2. (a) The office shall do the following:
5 (1) Develop and maintain overall strategy and architecture for the
6 use of information technology in state government.
7 (2) Review state agency budget requests and proposed contracts
8 relating to information technology at the request of the budget
9 agency.
10 (3) Coordinate state information technology master planning.
11 (4) Maintain an inventory of significant information technology
12 resources and expenditures.
13 (5) Manage a computer gateway to carry out or facilitate public,
14 educational, and governmental functions.
15 (6) Provide technical staff support services for state agencies.
16 (7) Provide services that may be requested by the following:
17 (A) The judicial department of state government.
18 (B) The legislative department of state government.
19 (C) A state educational institution.
20 (D) A political subdivision (as defined in IC 36-1-2-13).

- 1 (E) A body corporate and politic created by statute.
 2 (F) An entity created by the state.
 3 (8) Monitor trends and advances in information technology.
 4 (9) Review projects, architecture, security, staffing, and
 5 expenditures.
 6 (10) Develop and maintain policies, procedures, and guidelines
 7 for the effective and secure use of information technology in state
 8 government.
 9 (11) Advise the state personnel department on guidelines for
 10 information technology staff for state agencies.
 11 (12) Conduct periodic management reviews of information
 12 technology activities within state agencies upon request.
 13 (13) Seek funding for technology services from the following:
 14 (A) Grants.
 15 (B) Federal sources.
 16 (C) Gifts, donations, and bequests.
 17 (D) Partnerships with other governmental entities or the
 18 private sector.
 19 (E) Appropriations.
 20 (F) Any other source of funds.
 21 **(14) Certify, before July 1 of each year, that any technology**
 22 **services program funded by the judicial technology and**
 23 **automation project fund established by IC 33-24-6-12:**
 24 **(A) shares and exchanges all information with any**
 25 **independent provider of technology services;**
 26 **(B) charges a fee that is reasonable by industry standards**
 27 **for the sharing of bulk information; and**
 28 **(C) complies with IC 33-24-6-3(a)(7) and IC 33-24-6-3(b).**
 29 ~~(14)~~ **(15)** Perform other information technology related functions
 30 and duties as directed by the governor.
 31 (b) The office may adopt rules under IC 4-22-2 that are necessary
 32 or appropriate in carrying out its powers and duties.

33 SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.44-2009,
 34 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 27. (a) Except as provided in subsection (b) **or (c)**,
 36 on request, a law enforcement agency shall release a limited criminal
 37 history to or allow inspection of a limited criminal history by
 38 noncriminal justice organizations or individuals only if the subject of

- 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.

- 1 (C) Child molesting (IC 35-42-4-3).
 2 (D) Child exploitation (IC 35-42-4-4(b)).
 3 (E) Possession of child pornography (IC 35-42-4-4(c)).
 4 (F) Vicarious sexual gratification (IC 35-42-4-5).
 5 (G) Child solicitation (IC 35-42-4-6).
 6 (H) Child seduction (IC 35-42-4-7).
 7 (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
 8 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen
 9 (18) years of age.

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

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

- 17 (1) Federally chartered or insured banking institutions.
 18 (2) Officials of state and local government for any of the
 19 following purposes:
 20 (A) Employment with a state or local governmental entity.
 21 (B) Licensing.
 22 (3) Segments of the securities industry identified under 15 U.S.C.
 23 78q(f)(2).

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

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

31 SECTION 3. IC 11-8-1-3.1 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2011]: **Sec. 3.1. "Average daily marginal cost of incarcerating an
 34 offender" means the average daily cost to the department to
 35 commit one (1) additional offender to the department without
 36 building additional beds as determined under IC 11-10-13-1(b).**

37 SECTION 4. IC 11-8-1-5.6 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.6. "Community

- 1 transition program commencement date" means the following:
- 2 (1) Not earlier than sixty (60) days and not later than thirty (30)
- 3 days before an offender's expected release date, if the most
- 4 serious offense for which the person is committed is a Class D
- 5 felony.
- 6 (2) Not earlier than ninety (90) days and not later than thirty (30)
- 7 days before an offender's expected release date, if the most
- 8 serious offense for which the person is committed is a Class C
- 9 felony and subdivision (3) does not apply.
- 10 (3) Not earlier than one hundred twenty (120) days and not later
- 11 than thirty (30) days before an offender's expected release date, if:
- 12 (A) the most serious offense for which the person is committed
- 13 is a Class C felony;
- 14 (B) all of the offenses for which the person was concurrently
- 15 or consecutively sentenced are offenses under IC 16-42-19 or
- 16 IC 35-48-4; and
- 17 (C) none of the offenses for which the person was concurrently
- 18 or consecutively sentenced are listed in ~~IC 35-50-2-2(b)(4)~~.
- 19 **IC 35-50-2-2(b)(3).**
- 20 (4) Not earlier than one hundred twenty (120) days and not later
- 21 than thirty (30) days before an offender's expected release date, if
- 22 the most serious offense for which the person is committed is a
- 23 Class A or Class B felony and subdivision (5) does not apply.
- 24 (5) Not earlier than one hundred eighty (180) days and not later
- 25 than thirty (30) days before an offender's expected release date, if:
- 26 (A) the most serious offense for which the person is committed
- 27 is a Class A or Class B felony;
- 28 (B) all of the offenses for which the person was concurrently
- 29 or consecutively sentenced are offenses under IC 16-42-19 or
- 30 IC 35-48-4; and
- 31 (C) none of the offenses for which the person was concurrently
- 32 or consecutively sentenced are listed in ~~IC 35-50-2-2(b)(4)~~.
- 33 **IC 35-50-2-2(b)(3).**
- 34 SECTION 5. IC 11-8-8-21, AS ADDED BY P.L.216-2007,
- 35 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JULY 1, 2011]: Sec. 21. (a) The state sex and violent offender
- 37 administration fund is established to assist the department in carrying
- 38 out its duties under:

1 (1) IC 11-8-2-12.4 concerning the Indiana sex and violent
2 offender registry; **and**

3 (2) **IC 11-13-3-4 concerning GPS monitoring of sexually**
4 **violent predators and sex and violent offenders.**

5 The fund shall be administered by the department.

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

8 (c) The fund consists of:

9 (1) grants;

10 (2) donations;

11 (3) appropriations;

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

14 (5) money from the sex or violent offender address change fee (IC
15 36-2-13-5.6(a)(1)(B));

16 (6) **money from pretrial diversion fees (IC 33-37-4-1(d)); and**

17 (7) **money from deferral fees (IC 33-37-4-2(c)).**

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

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

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

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

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

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

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

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

5 **Sec. 2. (a) The department shall establish a baseline average**
6 **number of Class D felony offenders that each county commits**
7 **annually to the department based on the 2007, 2008, 2009, and**
8 **2010 calendar years.**

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

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

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

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

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

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

28 **(d) The department shall not consider a Class D felony offender**
29 **whose:**

30 **(1) probation has been revoked;**

31 **(2) participation in a community corrections program has**
32 **been terminated as a result of a violation of program**
33 **requirements; or**

34 **(3) participation in a problem solving court has been**
35 **terminated as a result of a violation of program requirements;**

36 **in the calculations under this chapter.**

37 **Sec. 3. (a) The local rehabilitation incentive described in section**
38 **2 of this chapter shall be distributed to a county's fiscal body,**

1 **which shall redistribute the incentive to:**

- 2 **(1) programs that defray the expense of housing an offender**
 3 **in jail;**
 4 **(2) probation programs;**
 5 **(3) work release programs;**
 6 **(4) community corrections programs; or**
 7 **(5) problem solving courts.**

8 **The fiscal body shall give first priority to programs that defray the**
 9 **expense of housing an offender in jail, second priority to probation**
 10 **and community corrections programs, and third priority to**
 11 **problem solving courts and work release programs.**

12 **(b) If a county has a local community corrections advisory**
 13 **board, the local community corrections advisory board shall make**
 14 **a recommendation to the county's fiscal body regarding how local**
 15 **rehabilitation incentive funds should be distributed.**

16 **Sec. 4. (a) The department shall create a disincentive to each**
 17 **county that commits to the department more than ten (10) more**
 18 **Class D felony offenders than the baseline average established for**
 19 **that county described in section 2(a) of this chapter in one (1)**
 20 **calendar year.**

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

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

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

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

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

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

- 38 **(1) probation has been revoked;**

1 **(2) participation in a community corrections program has**
 2 **been terminated as a result of a violation of program**
 3 **requirements; or**

4 **(3) participation in a problem solving court has been**
 5 **terminated as a result of a violation of program requirements;**
 6 **in the calculations under this chapter.**

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

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

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

- 17 ~~(1) Residential or work release programs.~~
- 18 ~~(2) House arrest, home detention, and electronic monitoring~~
 19 ~~programs.~~
- 20 ~~(3) Community restitution or service programs.~~
- 21 ~~(4) Victim-offender reconciliation programs.~~
- 22 ~~(5) Jail services programs.~~
- 23 ~~(6) Jail work crews.~~
- 24 ~~(7) Community work crews.~~
- 25 ~~(8) Juvenile detention alternative programs.~~
- 26 ~~(9) Day reporting programs.~~
- 27 ~~(10) Faith based programs.~~
- 28 ~~(11) Other community corrections programs approved by the~~
 29 ~~department.~~

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

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

37 SECTION 9. IC 11-12-2-1, AS AMENDED BY P.L.105-2010,
 38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2011]: Sec. 1. (a) For the purpose of encouraging counties to
 2 develop a coordinated local corrections-criminal justice system and
 3 providing effective alternatives to imprisonment at the state level, the
 4 commissioner shall, out of funds appropriated for such purposes, make
 5 grants to counties for the establishment and operation of community
 6 corrections programs. Appropriations intended for this purpose:

- 7 (1) may not be used by the department for any other purpose; and
- 8 (2) may be used by grant recipients only to provide
- 9 **community corrections program services for persons who:**
- 10 (A) have been convicted of crime; or
- 11 (B) are participating in a presentence community
- 12 corrections program after having been charged with a
- 13 crime.

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

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

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

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

- 1 **(i) have been convicted of crime; or**
- 2 **(ii) are participating in a presentence community**
- 3 **corrections program after having been charged with a**
- 4 **crime; and**
- 5 **(B) require that any user fees collected:**
- 6 **(i) by a community corrections program that is funded**
- 7 **in whole or in part by money received from the state;**
- 8 **and**
- 9 **(ii) from persons who have been convicted of a felony;**
- 10 **may be used only to provide services for persons who have**
- 11 **been convicted of or charged with a crime.**
- 12 (5) Adopt under IC 4-22-2 minimum standards for the
- 13 establishment, operation, and evaluation of programs receiving
- 14 financial aid under this chapter. (These standards must be
- 15 sufficiently flexible to foster the development of new and
- 16 improved correctional practices.)
- 17 (6) Examine and either approve or disapprove applications for
- 18 financial aid. The department's approval or disapproval must be
- 19 based on this chapter and the rules adopted under this chapter.
- 20 (7) Keep the budget agency informed of the amount of
- 21 appropriation needed to adequately fund programs under this
- 22 chapter.
- 23 (8) Adopt under IC 4-22-2 a formula or other method of
- 24 determining a participating county's share of funds appropriated
- 25 for purposes of this chapter. This formula or method must be
- 26 approved by the budget agency before the formula is adopted and
- 27 must be designed to accurately reflect a county's correctional
- 28 needs and ability to pay.
- 29 (9) Keep counties informed of money appropriated for the
- 30 purposes of this chapter.
- 31 (10) Provide an approved training curriculum for community
- 32 corrections field officers.
- 33 (11) Require community corrections programs to submit in
- 34 proposed budget requests an evaluation of the use of department
- 35 approved best practices for each community corrections program
- 36 component.
- 37 (b) The commissioner may do the following:
- 38 (1) Visit and inspect any program receiving financial aid under

1 this chapter.

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

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

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

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

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

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

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

37 (1) The maximum amount that a community corrections program
38 or a court may assess as a user fee under subsection (b) or

1 IC 35-38-2.5-6.
 2 (2) Administration by community corrections advisory boards of
 3 community corrections funds and the community corrections
 4 home detention fund, including criteria for expenditures from the
 5 funds.

6 **(3) A requirement that any user fees collected:**
 7 **(A) by a community corrections program that is funded in**
 8 **whole or in part by money received from the state; and**
 9 **(B) from persons who have been convicted of a felony;**
 10 **may be used only to provide services to a person who has been**
 11 **convicted of crime or is participating in a presentence**
 12 **community corrections program after having been charged**
 13 **with a crime.**

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

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

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

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

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

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

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

6 (3) After state fiscal year 1999, the amount deposited by the
7 department in the misdemeanor fund for the county in state fiscal
8 year 1999.

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

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

13 (2) home detention supervision grants to the community
14 corrections program made by the department under IC 11-12-2-1
15 for the purpose of funding supervision of home detention by a
16 community corrections program **involving persons who have
17 been convicted of a crime or are participating in a
18 presentence community corrections program after having
19 been charged with a crime;** and

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

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

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

1 **presentence community corrections program after having been**
 2 **charged with a crime.**

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

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

15 (b) The department shall set the per diem rate under this section. In
 16 setting the per diem rate for a community, the department may consider
 17 the direct costs incurred by the community to provide a community
 18 transition program. The per diem may not be less than seven dollars
 19 (\$7).

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

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

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

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

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

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

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

37 (2) compensation of probation officers;

38 (3) protection of probation records and disclosure of information

- 1 contained in those records; ~~and~~
 2 (4) presentence investigation reports;
 3 **(5) risk classification for probationers;**
 4 **(6) supervision levels for probationers based on risk**
 5 **classification;**
 6 **(7) a schedule of progressive probation incentives and**
 7 **violation sanctions, including judicial review procedures; and**
 8 **(8) qualifications for probation officers to administer**
 9 **probation violation sanctions under IC 35-38-2-3(e).**

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

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

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

- 22 (1) the implementation and management of probation case
 23 classification; and
 24 (2) the development and use of workload information.

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

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

- 33 (1) Eligibility standards.
 34 (2) Testing requirements and procedures.
 35 (3) Procedures and requirements for placement in programs
 36 provided by school corporations or special education cooperatives
 37 under IC 20-35-5.
 38 (4) Procedures and requirements for placement in residential

1 special education institutions or facilities under IC 20-35-6-2 and
2 511 IAC 7-27-12.

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

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

7 (B) coordination with:

8 (i) individual case plans; and

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

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

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

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

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

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

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

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

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

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

1 of Indiana established by IC 33-38-9-3.

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

5 (1) classification and reclassification of an offender as low
6 risk, medium risk, or high risk;

7 (2) classification of active and administrative levels of
8 supervision for an offender; and

9 (3) modification of an offender's supervision level.

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

12 (1) An offender classified as a high risk offender shall be
13 placed on active supervision during the offender's entire
14 period of probation.

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

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

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

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

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

29 (B) administrative supervision after the offender has
30 completed active supervision if the offender has not been
31 arrested for a new crime or violated a condition of
32 probation during the period of active supervision.

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

37 SECTION 20. IC 11-13-2-1 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. There is established

1 a program of state financial aid to be used for the support of court
 2 probation services **to felons and high risk offenders**. The financial aid
 3 program shall be administered by the judicial conference of Indiana.
 4 Funds appropriated to the conference for purposes of this chapter shall
 5 be distributed by the conference upon approval of the state budget
 6 committee.

7 SECTION 21. IC 11-13-2-2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. **(a) Except as**
 9 **provided in subsection (b)**, funds appropriated under this program
 10 may be made available to any court administering probation **services**
 11 **to felons and high risk offenders** in order to finance expenditures
 12 incurred for ~~either of~~ the following purposes:

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

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

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

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

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

24 **(b) Funds appropriated under this program may not be made**
 25 **available after July 1 of each year unless the Indiana office of**
 26 **technology has certified under IC 4-13.1-2-2 that the judicial**
 27 **technology and automation project is sharing information with**
 28 **independent providers.**

29 SECTION 22. IC 11-13-2-3 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) State financial
 31 aid for support of probation services **to felons and high risk offenders**
 32 may be made only to courts meeting the minimum standards adopted
 33 by the judicial conference of Indiana. ~~and may not exceed fifty percent~~
 34 ~~(50%) of the cost of the positions or services being financed.~~ Any court
 35 having probation jurisdiction may apply for financial assistance under
 36 this chapter by submitting an application to the conference for review.
 37 The application shall be accompanied by detailed plans regarding the
 38 use of the financial aid.

1 (b) The conference may recommend changes or modifications
 2 necessary to effect compliance with the minimum standards. The
 3 conference and the ~~state budget committee~~ **department** must approve
 4 all financial aid granted under this chapter. Any court receiving
 5 financial assistance under this chapter may be declared ineligible to
 6 receive that assistance if the court fails to maintain the minimum
 7 standards.

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

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

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

23 **Chapter 2.5. Probation Improvement Fund**

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

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

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

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

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

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

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

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

3 (f) Except as provided in subsection (g), money in the fund is
4 appropriated continuously for the purposes stated in sections 3 and
5 4 of this chapter.

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

7 (1) after July 1 of each year unless the Indiana office of
8 technology has certified under IC 4-13.1-2-2 that the judicial
9 technology and automation project is sharing information
10 with independent providers; or

11 (2) in a county that does not contain a community corrections
12 advisory board.

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

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

19 (A) to:

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

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

26 (iii) reduce the risk posed by persons who have been
27 charged with or convicted of a felony and are under
28 court supervision through effective supervision,
29 sanctions, and addressing any needs the persons have for
30 substance abuse treatment, mental health services, or
31 other services; and

32 (B) as approved by the department; and

33 (2) reduce the number of probation revocations:

34 (A) involving persons under the supervision of the county
35 probation department who have been charged with or
36 convicted of a felony; and

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

38 (b) To receive a grant under this section, a county probation

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

- 1 **(1) Appropriations from the general assembly.**
- 2 **(2) Donations, gifts, and money received from any other**
- 3 **source, including transfers from other funds or accounts.**
- 4 **(c) The expenses of administering the fund shall be paid from**
- 5 **money in the fund.**
- 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. Interest that**
- 9 **accrues from these investments shall be deposited in the fund.**
- 10 **(e) Money in the fund at the end of a state fiscal year does not**
- 11 **revert to the state general fund.**
- 12 **(f) Except as provided in subsection (g), money in the fund is**
- 13 **appropriated continuously for the purposes stated in section 3 of**
- 14 **this chapter.**
- 15 **(g) Money in the fund may not be disbursed:**
- 16 **(1) after July 1 of each year unless the Indiana office of**
- 17 **technology has certified under IC 4-13.1-2-2 that the judicial**
- 18 **technology and automation project is sharing information**
- 19 **with independent providers; or**
- 20 **(2) in a county that does not contain a community corrections**
- 21 **advisory board.**
- 22 **Sec. 3. (a) The department may, in consultation with the Indiana**
- 23 **judicial center and the division of mental health and addiction,**
- 24 **award a grant from the fund to a probation department to increase**
- 25 **substance abuse treatment access for persons on probation who are**
- 26 **under court supervision and have been diagnosed with a substance**
- 27 **abuse disorder or co-occurring disorder.**
- 28 **(b) To receive a grant under this section, a probation**
- 29 **department and the agency that will be providing treatment if the**
- 30 **grant is approved must submit an application to the department:**
- 31 **(1) on a form; and**
- 32 **(2) in the manner;**
- 33 **prescribed by the department.**
- 34 **(c) The department shall determine the amount of a grant**
- 35 **awarded under this section in consultation with the Indiana**
- 36 **judicial center and the division of mental health and addiction.**
- 37 **Sec. 4. The department shall adopt rules under IC 4-22-2 that**
- 38 **are necessary to implement this chapter.**

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

1 [EFFECTIVE JULY 1, 2011]: **Sec. 6.1. (a) This section applies to all**
2 **persons sentenced for a conviction after June 30, 2011.**

3 **(b) The department:**

4 **(1) shall:**

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

7 **(i) murder;**

8 **(ii) a Class A felony; or**

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

11 **(B) assist all parolees sentenced by a court in Indiana; and**

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

15 **(c) The department's duties under subsection (b) include:**

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

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

21 **(3) assisting persons in preparing parole release plans;**

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

24 **(5) providing family and individual counseling and treatment**
25 **placement;**

26 **(6) providing financial counseling;**

27 **(7) providing vocational and educational counseling**
28 **placement;**

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

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

33 **(10) notifying the parole board when a violation of parole**
34 **occurs; and**

35 **(11) cooperating with public and private agencies and with**
36 **individual citizens concerned with the treatment or welfare of**
37 **parolees, and assisting the parolee in obtaining services from**
38 **those agencies and citizens.**

1 **(d) Courts, probation officers, and other public officials shall**
 2 **cooperate with the department in obtaining information relating**
 3 **to persons committed to the department.**

4 **(e) The department shall cause the name of any person released**
 5 **on parole to be entered into the Indiana data communications**
 6 **system (IDACS).**

7 SECTION 28. IC 11-14-1-5 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. "Youthful offender"
 9 means an offender (as defined in IC 11-8-1-9) who:

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

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

- 24 (1) Examine the administrative and business methods and systems
 25 employed in the offices of the clerks of court and other offices
 26 related to and serving the courts and make recommendations for
 27 necessary improvement.
 28 (2) Collect and compile statistical data and other information on
 29 the judicial work of the courts in Indiana. All justices of the
 30 supreme court, judges of the court of appeals, judges of all trial
 31 courts, and any city or town courts, whether having general or
 32 special jurisdiction, court clerks, court reporters, and other
 33 officers and employees of the courts shall, upon notice by the
 34 executive director and in compliance with procedures prescribed
 35 by the executive director, furnish the executive director the
 36 information as is requested concerning the nature and volume of
 37 judicial business. The information must include the following:

- 38 (A) The volume, condition, and type of business conducted by

- 1 the courts.
- 2 (B) The methods of procedure in the courts.
- 3 (C) The work accomplished by the courts.
- 4 (D) The receipt and expenditure of public money by and for
- 5 the operation of the courts.
- 6 (E) The methods of disposition or termination of cases.
- 7 (3) Prepare and publish reports, not less than one (1) or more than
- 8 two (2) times per year, on the nature and volume of judicial work
- 9 performed by the courts as determined by the information
- 10 required in subdivision (2).
- 11 (4) Serve the judicial nominating commission and the judicial
- 12 qualifications commission in the performance by the commissions
- 13 of their statutory and constitutional functions.
- 14 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 15 (6) Administer the judicial technology and automation project
- 16 fund established by section 12 of this chapter.
- 17 (7) **Before July 1, 2011**, develop a standard protocol for the
- 18 ~~exchange sharing and exchanging~~ of information: ~~by not later~~
- 19 ~~than December 31, 2009:~~
- 20 (A) between the protective order registry, established by
- 21 IC 5-2-9-5.5, and county court case management systems;
- 22 (B) at the option of the county prosecuting attorney, for:
- 23 (i) a prosecuting attorney's case management system;
- 24 (ii) a county court case management system; and
- 25 (iii) a county court case management system developed and
- 26 operated by the division of state court administration;
- 27 to interface with the electronic traffic tickets, as defined by
- 28 IC 9-30-3-2.5; and
- 29 (C) between county court case management systems and the
- 30 case management system developed and operated by the
- 31 division of state court administration.
- 32 (8) Establish and administer an electronic system for receiving
- 33 information that relates to certain individuals who may be
- 34 prohibited from possessing a firearm and transmitting this
- 35 information to the Federal Bureau of Investigation for inclusion
- 36 in the NICS.
- 37 **(b) The division of state court administration shall not:**
- 38 **(1) deny a person access to any public records that the**

1 **division maintains or keeps, including public records that are**
 2 **maintained or kept as part of the judicial technology and**
 3 **automation project; or**

4 **(2) adopt a rule that limits public access or imposes any**
 5 **restriction on public records that are maintained by the**
 6 **county clerk.**

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (10) A deferred prosecution fee ~~(IC 33-37-5-17):~~
 35 **(IC 33-37-5-17(b)).**

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

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

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

- 1 (14) A sexual assault victims assistance fee (IC 33-37-5-23).
 2 (15) A public defense administration fee (IC 33-37-5-21.2).
 3 (16) A judicial insurance adjustment fee (IC 33-37-5-25).
 4 (17) A judicial salaries fee (IC 33-37-5-26).
 5 (18) A court administration fee (IC 33-37-5-27).
 6 (19) A DNA sample processing fee (IC 33-37-5-26.2).

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

- 13 (1) an initial user's fee of fifty dollars (\$50); and
 14 (2) a monthly user's fee of ten dollars (\$10) for each month that
 15 the person remains in the pretrial diversion program.

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

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

- 21 (1) ~~the~~ **Forty-eight dollars (\$48) of each** pretrial diversion **initial**
 22 **user** fee.
 23 **(2) The pretrial diversion monthly user fee.**
 24 ~~(2)~~ **(3) The marijuana eradication program fee.**
 25 ~~(3)~~ **(4) The alcohol and drug services program user fee.**
 26 ~~(4)~~ **(5) The law enforcement continuing education program fee.**

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

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

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

37 ~~(e)~~ **(f) Unless otherwise directed by a court, if a clerk collects only**
 38 **part of a criminal costs fee from a defendant under this section, the**

1 clerk shall distribute the partial payment of the criminal costs fee as
2 follows:

- 3 (1) The clerk shall apply the partial payment to general court
4 costs.
5 (2) If there is money remaining after the partial payment is
6 applied to general court costs under subdivision (1), the clerk
7 shall distribute the remainder of the partial payment for deposit in
8 the appropriate county user fee fund.
9 (3) If there is money remaining after distribution under
10 subdivision (2), the clerk shall distribute the remainder of the
11 partial payment for deposit in the state user fee fund.
12 (4) If there is money remaining after distribution under
13 subdivision (3), the clerk shall distribute the remainder of the
14 partial payment to any other applicable user fee fund.
15 (5) If there is money remaining after distribution under
16 subdivision (4), the clerk shall apply the remainder of the partial
17 payment to any outstanding fines owed by the defendant.

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

- 22 (1) for a violation constituting an infraction; or
23 (2) for a violation of an ordinance of a municipal corporation (as
24 defined in IC 36-1-2-10);

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

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

- 30 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
31 IC 33-37-5-4).
32 (2) An alcohol and drug services program user fee
33 (IC 33-37-5-8(b)).
34 (3) A law enforcement continuing education program fee
35 (IC 33-37-5-8(c)).
36 (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
37 (5) A highway work zone fee (IC 33-37-5-14).
38 (6) A deferred prosecution fee (~~IC 33-37-5-17~~).

- 1 **(IC 33-37-5-17(b)).**
- 2 (7) A jury fee (IC 33-37-5-19).
- 3 (8) A document storage fee (IC 33-37-5-20).
- 4 (9) An automated record keeping fee (IC 33-37-5-21).
- 5 (10) A late payment fee (IC 33-37-5-22).
- 6 (11) A public defense administration fee (IC 33-37-5-21.2).
- 7 (12) A judicial insurance adjustment fee (IC 33-37-5-25).
- 8 (13) A judicial salaries fee (IC 33-37-5-26).
- 9 (14) A court administration fee (IC 33-37-5-27).
- 10 (15) A DNA sample processing fee (IC 33-37-5-26.2).
- 11 **(16) A county offender deferral fee (IC 33-37-5-17(c)).**
- 12 (c) The clerk shall transfer to the county auditor or fiscal officer of
- 13 the municipal corporation the following fees, not later than thirty (30)
- 14 days after the fees are collected:
- 15 (1) The alcohol and drug services program user fee
- 16 (IC 33-37-5-8(b)).
- 17 (2) The law enforcement continuing education program fee
- 18 (IC 33-37-5-8(c)).
- 19 (3) ~~The Fifty dollars (\$50) of the~~ deferral program **initial user's**
- 20 **fee (subsection (e)(1)); (subsection (e)(1)), or, if the initial**
- 21 **user's fee is less than fifty-two dollars (\$52), all but two**
- 22 **dollars (\$2) of the initial user's fee.**
- 23 **(4) The deferral program monthly user's fee under subsection**
- 24 **(e)(2).**
- 25 **(5) The county offender deferral fee under subsection (b)(16),**
- 26 **for deposit in the county offender fund (IC 36).**
- 27 The auditor or fiscal officer shall deposit the fees in the user fee fund
- 28 established under IC 33-37-8.
- 29 (d) The defendant is not liable for any ordinance violation costs fee
- 30 in an action if all the following apply:
- 31 (1) The defendant was charged with an ordinance violation
- 32 subject to IC 33-36.
- 33 (2) The defendant denied the violation under IC 33-36-3.
- 34 (3) Proceedings in court against the defendant were initiated
- 35 under IC 34-28-5 (or IC 34-4-32 before its repeal).
- 36 (4) The defendant was tried and the court entered judgment for
- 37 the defendant for the violation.
- 38 (e) Instead of the infraction or ordinance violation costs fee

1 prescribed by subsection (a), except for the automated record keeping
 2 fee (IC 33-37-5-21), the clerk shall collect a deferral program fee if an
 3 agreement between a prosecuting attorney or an attorney for a
 4 municipal corporation and the person charged with a violation entered
 5 into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires
 6 payment of those fees by the person charged with the violation. The
 7 deferral program fee is:

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

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

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

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

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

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

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

32 SECTION 33. IC 33-37-5-31 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2011]: **Sec. 31. In each action in which a**
 35 **person is required to pay a pretrial diversion fee, the clerk shall**
 36 **collect a county offender diversion fee of thirty dollars (\$30).**

37 SECTION 34. IC 33-37-7-2, AS AMENDED BY P.L.182-2009(ss),
 38 SECTION 395, IS AMENDED TO READ AS FOLLOWS

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

- 11 (1) IC 33-37-4-1(a) (criminal costs fees).
- 12 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 13 (3) IC 33-37-4-3(a) (juvenile costs fees).
- 14 (4) IC 33-37-4-4(a) (civil costs fees).
- 15 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 16 (6) IC 33-37-4-7(a) (probate costs fees).
- 17 (7) ~~IC 33-37-5-17~~ **IC 33-37-5-17(b)** (deferred prosecution fees).

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (2) The percentage share of the support and maintenance fees for

1 cases designated as IV-D child support cases in ISETS collected
 2 under IC 33-37-5-6 that is reimbursable to the county at the
 3 federal financial participation rate.

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

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

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

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

17 (i) This subsection does not apply to court administration fees
 18 collected in small claims actions filed in a court described in IC 33-34.
 19 The clerk of a circuit court shall semiannually distribute to the auditor
 20 of state for deposit in the state general fund one hundred percent
 21 (100%) of the following:

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

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

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

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

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

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

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

38 (2) The clerk shall distribute one hundred percent (100%) of the

1 service fees collected in a city or town court to the city or town
2 fiscal officer for deposit in the city or town general fund.

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

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

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

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

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

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

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

29 **The auditor of state shall deposit the remaining funds in the state**
30 **general fund.**

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

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

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

36 SECTION 35. IC 33-37-7-8, AS AMENDED BY P.L.182-2009(ss),
37 SECTION 396, IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) The clerk of a city or town

1 court shall distribute semiannually to the auditor of state as the state
 2 share for deposit in the homeowner protection unit account established
 3 by IC 4-6-12-9 one hundred percent (100%) of the automated record
 4 keeping fees collected under IC 33-37-5-21 with respect to actions
 5 resulting in the accused person entering into a pretrial diversion
 6 program agreement under IC 33-39-1-8 or a deferral program
 7 agreement under IC 34-28-5-1 and, **except as provided in subsection**
 8 **(j)**, for deposit in the state general fund fifty-five percent (55%) of the
 9 amount of fees collected under the following:

- 10 (1) IC 33-37-4-1(a) (criminal costs fees).
- 11 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 12 (3) IC 33-37-4-4(a) (civil costs fees).
- 13 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 14 (5) ~~IC 33-37-5-17~~ **IC 33-37-5-17(b)** (deferred prosecution fees).

15 (b) The city or town fiscal officer shall distribute monthly to the
 16 county auditor as the county share twenty percent (20%) of the amount
 17 of fees collected under the following:

- 18 (1) IC 33-37-4-1(a) (criminal costs fees).
- 19 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 20 (3) IC 33-37-4-4(a) (civil costs fees).
- 21 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 22 (5) ~~IC 33-37-5-17~~ **IC 33-237-5-17(b)** (deferred prosecution fees).

23 (c) The city or town fiscal officer shall retain twenty-five percent
 24 (25%) as the city or town share of the fees collected under the
 25 following:

- 26 (1) IC 33-37-4-1(a) (criminal costs fees).
- 27 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 28 (3) IC 33-37-4-4(a) (civil costs fees).
- 29 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 30 (5) ~~IC 33-37-5-17~~ **IC 33-237-5-17(b)** (deferred prosecution fees).

31 (d) The clerk of a city or town court shall distribute semiannually to
 32 the auditor of state for deposit in the state user fee fund established in
 33 IC 33-37-9 the following:

- 34 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 35 interdiction, and correction fees collected under
 36 IC 33-37-4-1(b)(5).
- 37 (2) Twenty-five percent (25%) of the alcohol and drug
 38 countermeasures fees collected under IC 33-37-4-1(b)(6),

- 1 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 2 (3) One hundred percent (100%) of the highway work zone fees
3 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 4 (4) One hundred percent (100%) of the safe schools fee collected
5 under IC 33-37-5-18.
- 6 (5) One hundred percent (100%) of the automated record keeping
7 fee (IC 33-37-5-21) not distributed under subsection (a).
- 8 (e) The clerk of a city or town court shall distribute monthly to the
9 county auditor the following:
- 10 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
11 interdiction, and corrections fees collected under
12 IC 33-37-4-1(b)(5).
- 13 (2) Seventy-five percent (75%) of the alcohol and drug
14 countermeasures fees collected under IC 33-37-4-1(b)(6),
15 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 16 The county auditor shall deposit fees distributed by a clerk under this
17 subsection into the county drug free community fund established under
18 IC 5-2-11.
- 19 (f) The clerk of a city or town court shall distribute monthly to the
20 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
21 percent (100%) of the following:
- 22 (1) The late payment fees collected under IC 33-37-5-22.
- 23 (2) The small claims service fee collected under
24 IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).
- 25 (3) The small claims garnishee service fee collected under
26 IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).
- 27 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
28 fees distributed by a clerk under this subsection in the city or town
29 general fund.
- 30 (g) The clerk of a city or town court shall semiannually distribute to
31 the auditor of state for deposit in the state general fund one hundred
32 percent (100%) of the following:
- 33 (1) The public defense administration fee collected under
34 IC 33-37-5-21.2.
- 35 (2) The DNA sample processing fees collected under
36 IC 33-37-5-26.2.
- 37 (3) The court administration fees collected under IC 33-37-5-27.
- 38 (h) The clerk of a city or town court shall semiannually distribute to

1 the auditor of state for deposit in the judicial branch insurance
2 adjustment account established by IC 33-38-5-8.2 one hundred percent
3 (100%) of the judicial insurance adjustment fee collected under
4 IC 33-37-5-25.

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

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

- 16 (1) one and five-tenths percent (1.5%) of the deferred
17 prosecution fee received from the clerk of a city or town court
18 in the public defense fund established by IC 33-40-6-1; and
19 (2) one and five-tenths percent (1.5%) of the deferred
20 prosecution fee received from the clerk of a city or town court
21 in 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 **(k) The clerk of a city or town court shall monthly distribute to**
26 **the county auditor for deposit in the county offender fund**
27 **(IC 35-2-21-1) one hundred percent (100%) of the following:**

- 28 (1) **The county offender deferral fee.**
29 (2) **The county offender diversion fee.**

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

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

- 36 (1) anhydrous ammonia (NH₃);
37 (2) an ammonia solution; or
38 (3) a container used to store or transport anhydrous ammonia or

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

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

- 7 (1) the victim or agent committed a crime involving the
 8 anhydrous ammonia, ammonia solution, or container that is the
 9 subject of the theft or criminal conversion; or
 10 (2) the victim's or agent's willful or intentional commission of a
 11 violation of an applicable law, rule, or regulation governing the:
 12 (A) design;
 13 (B) construction;
 14 (C) location;
 15 (D) installation; or
 16 (E) operation;
 17 of equipment for storage, handling, use, or transportation of
 18 anhydrous ammonia or ammonia solution proximately caused the
 19 theft or criminal conversion.

20 SECTION 37. IC 34-30-20-1 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A person is immune
 22 from civil liability based on an act or omission related to the use of a
 23 firearm or ammunition for a firearm by another person if the other
 24 person directly or indirectly obtained the firearm or ammunition for a
 25 firearm through the commission of the following:

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

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

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

1 property.

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

- 8 (1) any miswriting, misspelling, or grammatical error;
- 9 (2) any misjoinder of parties defendant or offenses charged;
- 10 (3) the presence of any unnecessary repugnant allegation;
- 11 (4) the failure to negate any exception, excuse, or provision
12 contained in the statute defining the offense;
- 13 (5) the use of alternative or disjunctive allegations as to the acts,
14 means, intents, or results charged;
- 15 (6) any mistake in the name of the court or county in the title of
16 the action, or the statutory provision alleged to have been
17 violated;
- 18 (7) the failure to state the time or place at which the offense was
19 committed where the time or place is not of the essence of the
20 offense;
- 21 (8) the failure to state an amount of value or price of any matter
22 where that value or price is not of the essence of the offense; or
- 23 (9) any other defect which does not prejudice the substantial
24 rights of the defendant.

25 (b) The indictment or information may be amended in matters of
26 substance and the names of material witnesses may be added, by the
27 prosecuting attorney, upon giving written notice to the defendant at any
28 time:

- 29 (1) up to:
 - 30 (A) thirty (30) days if the defendant is charged with a felony;
 - 31 or
 - 32 (B) fifteen (15) days if the defendant is charged only with one
33 (1) or more misdemeanors;
 - 34 before the omnibus date; or
 - 35 (2) before the commencement of trial;

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

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

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

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

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

- 24 (1) a warrant commanding that the person be arrested;
 25 (2) probable cause to believe the person has committed or
 26 attempted to commit, or is committing or attempting to commit,
 27 **theft or** a felony;
 28 (3) probable cause to believe the person has violated the
 29 provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1),
 30 IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;
 31 (4) probable cause to believe the person is committing or
 32 attempting to commit a misdemeanor in the officer's presence;
 33 (5) probable cause to believe the person has committed a:
 34 (A) battery resulting in bodily injury under IC 35-42-2-1; or
 35 (B) domestic battery under IC 35-42-2-1.3.

36 The officer may use an affidavit executed by an individual alleged
 37 to have direct knowledge of the incident alleging the elements of
 38 the offense of battery to establish probable cause;

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

1 **court administration.**

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

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

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

16 (1) on probation;

17 (2) in a community corrections program under IC 35-38-2.6;
18 or

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

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

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

30 SECTION 43. IC 35-38-2-2.3, AS AMENDED BY P.L.111-2009,
31 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2011]: **Sec. 2.3. (a) As a condition of probation, the court may**
33 **require a person to do a combination of the following, subject to the**
34 **supervision guidelines for the person's risk classification:**

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

38 (2) Undergo available medical or psychiatric treatment and

- 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

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

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

3 (1) the conditions of probation; and

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

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

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

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

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

21 (1) the term of imprisonment;

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

24 (3) the conditions.

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

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

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

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

38 (2) the prosecuting attorney shall file a confidential form

1 prescribed or approved by the division of state court
2 administration with the clerk.

3 ~~(g)~~ **(h)** As a condition of probation, a court shall require a person:
4 (1) convicted of an offense described in IC 10-13-6-10;
5 (2) who has not previously provided a DNA sample in accordance
6 with IC 10-13-6; and
7 (3) whose sentence does not involve a commitment to the
8 department of correction;
9 to provide a DNA sample as a condition of probation.

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

14 (1) the person has violated a condition of probation during the
15 probationary period; and
16 (2) the petition to revoke probation is filed during the
17 probationary period or before the earlier of the following:
18 (A) One (1) year after the termination of probation.
19 (B) Forty-five (45) days after the state receives notice of the
20 violation.

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

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

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

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

33 (e) **A person may admit to the violation and waive the right to**
34 **a probation violation hearing after being offered the opportunity**
35 **to consult with an attorney. If the person admits to the violation**
36 **and requests to waive the probation violation hearing, the**
37 **probation officer shall advise the person that by waiving the right**
38 **to a probation violation hearing the person forfeits the rights**

1 **provided in subsection (f). The sanction administered must follow**
 2 **the schedule of progressive probation violation sanctions adopted**
 3 **by the judicial conference of Indiana under IC 11-13-1-8.**

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

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

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

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

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

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

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

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

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

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

34 (1) reinstate the person's probationary period, with or without
 35 enlarging the conditions, if the sum of the length of the original
 36 probationary period and the reinstated probationary period does
 37 not exceed the length of the maximum sentence allowable for the
 38 offense that is the basis of the probation; or

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

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

7 (1) order a sanction as set forth in subsection ~~(i)~~; **(j)**; and
8 (2) provide credit for time served as set forth under
9 IC 35-38-2.5-5.

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

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

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

17 SECTION 45. IC 35-38-2.6-1, AS AMENDED BY P.L.151-2006,
18 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2011]: Sec. 1. (a) Except as provided in subsection (b), this
20 chapter applies to the sentencing of a person convicted of:

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

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

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

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

30 (i) work release program; or

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

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

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

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

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

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

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

3 SECTION 46. IC 35-38-3-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The department,
5 after diagnosis and classification, shall:

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

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

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

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

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

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

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

20 ~~(4) (2) for each offender:~~

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

24 (B) whose sentence may be suspended;

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

27 ~~(5) (3) notify the trial court and prosecuting attorney if the degree~~
28 ~~of security assigned differs from the court's recommendations;~~
29 ~~and~~

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

36 (b) The department may change the degree of security to which the
37 person is assigned. However, if the person is changed to a lesser degree
38 of security during the first two (2) years of the commitment, the

1 department shall notify the trial court and the prosecuting attorney not
 2 less than thirty (30) days before the effective date of the changed
 3 security assignment.

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

8 (1) is not prosecuted or if charges against the person are
 9 dismissed;

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

11 (3) is convicted of the crime and the conviction is subsequently
 12 vacated;

13 the person may petition a court to restrict disclosure of the records
 14 related to the arrest to a noncriminal justice organization or an
 15 individual.

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

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

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

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

22 (1) if the person is acquitted, thirty (30) days after the person
 23 is acquitted;

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

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

29 (B) the opinion or memorandum decision vacating the
 30 person's conviction is certified; or

31 (3) if the person is not prosecuted, thirty (30) days after
 32 charges are dismissed, if the charges are not refiled.

33 (d) A petition under subsection (a) must set forth:

34 (1) the date of the arrest;

35 (2) the charge;

36 (3) the date charges were dismissed, if applicable;

37 (4) the date of conviction or acquittal, if applicable;

38 (5) the date the conviction was vacated, if applicable;

1 **(6) the basis on which the conviction was vacated, if**
2 **applicable;**

3 **(7) the law enforcement agency employing the arresting**
4 **officer;**

5 **(8) any other known identifying information, such as the name**
6 **of the arresting officer, case number, or court cause number;**

7 **(9) the date of the petitioner's birth; and**

8 **(10) the petitioner's Social Security number.**

9 **(e) A copy of a petition under subsection (a) shall be served on**
10 **the prosecuting attorney and the state central repository for**
11 **records.**

12 **(f) If the prosecuting attorney wishes to oppose a petition under**
13 **subsection (a), the prosecuting attorney shall, not later than thirty**
14 **(30) days after the petition is filed, file a notice of opposition with**
15 **the court setting forth reasons for opposing the petition. The**
16 **prosecuting attorney shall attach to the notice of opposition a**
17 **certified copy of any documentary evidence showing that the**
18 **petitioner is not entitled to relief. A copy of the notice of opposition**
19 **and copies of any documentary evidence shall be served on the**
20 **petitioner in accordance with the Indiana Rules of Trial Procedure.**
21 **The court may:**

22 **(1) summarily grant the petition;**

23 **(2) set the matter for hearing; or**

24 **(3) summarily deny the petition, if the court determines that:**

25 **(A) the petition is insufficient; or**

26 **(B) based on documentary evidence submitted by the**
27 **prosecuting attorney, the petitioner is not entitled to have**
28 **access to the petitioner's arrest records restricted.**

29 **(g) If a notice of opposition is filed under subsection (f) and the**
30 **court does not summarily grant or summarily deny the petition,**
31 **the court shall set the matter for a hearing.**

32 **(h) After a hearing is held under subsection (g), the court shall**
33 **grant the petition filed under subsection (a), unless the petitioner**
34 **is being reprobsecuted on charges related to the original conviction.**

35 **(i) If the court grants a petition filed under subsection (a), the**
36 **court shall order the state police department not to disclose or**
37 **permit disclosure of the petitioner's limited criminal history**
38 **information to a noncriminal justice organization or an individual**

1 **under IC 10-13-3-27.**

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

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

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

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

- 8 (1) convicted of a misdemeanor or a Class D felony that did
9 not result in injury to a person; or
10 (2) adjudicated a delinquent child for committing an offense
11 that, if committed by an adult, would be a misdemeanor or
12 Class D felony that did not result in injury to a person.

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

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

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

36 **Sec. 5. If the court grants the petition of a person under this**
37 **chapter, the court shall do the following:**

- 38 (1) Order:

- 1 **(A) the department of correction; and**
 2 **(B) each:**
 3 **(i) law enforcement agency; and**
 4 **(ii) other person;**
 5 **who incarcerated, provided treatment for, or provided**
 6 **other services for the person under an order of the court;**
 7 **to prohibit the release of the person's records or information**
 8 **relating to the misdemeanor, nonviolent Class D felony, or**
 9 **juvenile adjudication described in section 2 of this chapter, in**
 10 **the person's records to a noncriminal justice agency without**
 11 **a court order.**
- 12 **(2) Order any:**
 13 **(A) state;**
 14 **(B) regional; or**
 15 **(C) local;**
 16 **central repository for criminal history information to prohibit**
 17 **the release of the person's records or information relating to**
 18 **the misdemeanor, nonviolent Class D felony, or juvenile**
 19 **adjudication described in section 2 of this chapter, in the**
 20 **person's records to a noncriminal justice agency without a**
 21 **court order.**
- 22 **Sec. 5. (a) If a person whose records are restricted under this**
 23 **chapter brings a civil action that might be defended with the**
 24 **contents of the records, the defendant is presumed to have a**
 25 **complete defense to the action.**
- 26 **(b) For the plaintiff to recover in an action described in**
 27 **subsection (a), the plaintiff must show that the contents of the**
 28 **expunged records would not exonerate the defendant.**
- 29 **(c) In an action described in subsection (a), the plaintiff may be**
 30 **required to state under oath whether:**
 31 **(1) the plaintiff had records in the criminal justice system;**
 32 **and**
 33 **(2) those records were expunged.**
- 34 **(d) In an action described in subsection (a), if the plaintiff denies**
 35 **the existence of the records, the defendant may prove the existence**
 36 **of the records in any manner compatible with the law of evidence.**
- 37 **Sec. 6. If a court orders a person's records to be restricted under**
 38 **this chapter, the person may legally state on an application for**

1 **employment or any other document that the person has not been**
 2 **arrested for or convicted of the felony or misdemeanor recorded**
 3 **in the restricted records.**

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

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

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

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

14 (2) Child molesting (IC 35-42-4-3) resulting in serious bodily
 15 injury or death:

16 (3) (2) Murder (IC 35-42-1-1). if:

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

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

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

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

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

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

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

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

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

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

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

38 SECTION 50. IC 35-41-1-8.3 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2011]: **Sec. 8.3. "Defraud" means to deprive**
 3 **a person of any money, property, interest, benefit, or right by**
 4 **means of false or deceptive pretenses, representations, or promises.**

5 SECTION 51. IC 35-43-2-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A person who breaks
 7 and enters the building or structure of another person, with intent to
 8 commit **theft or** a felony in it, commits burglary, a Class C felony.
 9 However, the offense is:

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

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

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

1 (iv) key facility;
 2 and the absence of the property creates a substantial risk of bodily
 3 injury to a person.

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

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

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

12 (A) relates to transportation safety;

13 (B) relates to public safety; or

14 (C) is taken from a:

15 (i) hospital or other health care facility;

16 (ii) telecommunications provider;

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

18 (iv) key facility;

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

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

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

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

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

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

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

38 (2) ordering the suspension of the person's driving privileges

1 under IC 9-25-6-21.

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

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

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

10 (A) by another person;

11 (B) at another time;

12 (C) with different provisions; or

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

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

17 (A) by another person;

18 (B) at another time;

19 (C) with different provisions; or

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

21 commits counterfeiting, a Class D felony.

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

25 (1) by another person;

26 (2) at another time;

27 (3) with different provisions; or

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

29 commits forgery, a ~~Class E~~ **Class D** felony.

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

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

37 (2) knowingly or intentionally makes a false statement or conceals
38 a material fact or otherwise commits fraud in an application for a

1 driver's license or a state identification card;
 2 commits application fraud, a Class D felony.
 3 (d) This subsection applies to a person who applies for a state
 4 identification card (as issued under IC 9-24-16): A person who:
 5 (1) knowingly or intentionally uses false information in an
 6 application for an identification card or for a renewal or duplicate
 7 of an identification card; or
 8 (2) knowingly or intentionally makes a false statement or
 9 otherwise commits fraud in an application for an identification
 10 card;
 11 commits application fraud; a Class D felony.

12 SECTION 55. IC 35-43-5-3 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) A person who:

- 14 (1) being an officer, manager, or other person participating in the
 15 direction of a credit institution, knowingly or intentionally
 16 receives or permits the receipt of a deposit or other investment,
 17 knowing that the institution is insolvent;
 18 (2) knowingly or intentionally:
 19 (A) makes a false or misleading written statement; or
 20 (B) misrepresents:
 21 (i) the identity of the person or another person;
 22 (ii) a person as being a physician licensed under
 23 IC 25-22.5; or
 24 (iii) the identity or quality of property;
 25 with intent to obtain property, employment, or an educational
 26 opportunity;
 27 (3) misapplies entrusted property, property of a governmental
 28 entity, or property of a credit institution in a manner that the
 29 person knows is unlawful or that the person knows involves
 30 substantial risk of loss or detriment to either the owner of the
 31 property or to a person for whose benefit the property was
 32 entrusted;
 33 (4) knowingly or intentionally, in the regular course of business,
 34 either:
 35 (A) uses or possesses for use a false weight or measure or
 36 other device for falsely determining or recording the quality or
 37 quantity of any commodity; or
 38 (B) sells, offers, or displays for sale or delivers less than the

1 represented quality or quantity of any commodity;
 2 (5) with intent to defraud another person furnishing electricity,
 3 gas, water, telecommunication, or any other utility service **or**
 4 **cable television service**, avoids a lawful charge for that service
 5 by scheme or device or by tampering with facilities or equipment
 6 of the person furnishing the service;
 7 ~~(6) with intent to defraud; misrepresents the identity of the person~~
 8 ~~or another person or the identity or quality of property;~~
 9 ~~(7) (6) with intent to defraud an owner of a coin machine, deposits~~
 10 ~~a slug in that machine;~~
 11 ~~(8) (7) with intent to enable the person or another person to~~
 12 ~~deposit a slug in a coin machine, makes, possesses, or disposes of~~
 13 ~~a slug; or~~
 14 ~~(9) (8) disseminates to the public an advertisement that the person~~
 15 ~~knows is false, misleading, or deceptive, with intent to promote~~
 16 ~~the purchase or sale of property or the acceptance of employment;~~
 17 ~~(10) with intent to defraud; misrepresents a person as being a~~
 18 ~~physician licensed under IC 25-22.5; or~~
 19 ~~(11) knowingly and intentionally defrauds another person~~
 20 ~~furnishing cable TV service by avoiding paying compensation for~~
 21 ~~that service by any scheme or device or by tampering with~~
 22 ~~facilities or equipment of the person furnishing the service;~~
 23 commits deception, a Class A misdemeanor.

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

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

- 36 (1) without the other person's consent; and
 37 (2) with intent to:
 38 (A) harm or defraud another person;

- 1 (B) assume another person's identity; or
 2 (C) profess to be another person;
 3 commits identity deception, a Class D felony.
- 4 (b) However, the offense defined in subsection (a) is a Class C
 5 felony if:
- 6 (1) a person obtains, possesses, transfers, or uses the identifying
 7 information of more than one hundred (100) persons;
 8 (2) the fair market value of the fraud or harm caused by the
 9 offense is at least fifty thousand dollars (\$50,000); ~~or~~
 10 (3) a person obtains, possesses, transfers, or uses the identifying
 11 information of a person who is less than eighteen (18) years of
 12 age and is:
- 13 (A) the person's son or daughter;
 14 (B) a dependent of the person;
 15 (C) a ward of the person; or
 16 (D) an individual for whom the person is a guardian; **or**
- 17 **(4) a person obtains, possesses, transfers, or uses the**
 18 **identifying information of another person with intent to:**
 19 **(A) commit terrorism; or**
 20 **(B) obtain or transport a weapon of mass destruction.**
- 21 (c) The conduct prohibited in subsections (a) and (b) does not apply
 22 to:
- 23 (1) a person less than twenty-one (21) years of age who uses the
 24 identifying information of another person to acquire an alcoholic
 25 beverage (as defined in IC 7.1-1-3-5);
 26 (2) a minor (as defined in IC 35-49-1-4) who uses the identifying
 27 information of another person to acquire:
- 28 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
 29 (B) a periodical, a videotape, or other communication medium
 30 that contains or depicts nudity (as defined in IC 35-49-1-5);
 31 (C) admittance to a performance (live or film) that prohibits
 32 the attendance of the minor based on age; or
 33 (D) an item that is prohibited by law for use or consumption by
 34 a minor; or
- 35 (3) any person who uses the identifying information for a lawful
 36 purpose.
- 37 (d) It is not a defense in a prosecution under subsection (a) or (b)
 38 that no person was harmed or defrauded.

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

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

9 commits synthetic identity deception, a Class D felony.

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

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

13 or

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

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

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

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

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

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

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

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

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

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

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

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

36 SECTION 58. IC 35-43-5-4.3, AS AMENDED BY P.L.137-2009,
 37 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2011]: Sec. 4.3. (a) As used in this section, "card skimming

1 device" means a device that is designed to read information encoded on
 2 a credit card. The term includes a device designed to read, record, or
 3 transmit information encoded on a credit card:

- 4 (1) directly from a credit card; or
- 5 (2) from another device that reads information directly from a
 6 credit card.

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

- 9 (1) identity deception (IC 35-43-5-3.5);
- 10 (2) synthetic identity deception (IC 35-43-5-3.8); **or**
- 11 (3) fraud (IC 35-43-5-4); ~~or~~
- 12 ~~(4) terroristic deception (IC 35-43-5-3.6);~~

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

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

- 23 (1) makes, utters, presents, or causes to be presented to an insurer
 24 or an insurance claimant, a claim statement that contains false,
 25 incomplete, or misleading information concerning the claim;
- 26 (2) presents, causes to be presented, or prepares with knowledge
 27 or belief that it will be presented to or by an insurer, an oral, a
 28 written, or an electronic statement that the person knows to
 29 contain materially false information as part of, in support of, or
 30 concerning a fact that is material to:
 - 31 (A) the rating of an insurance policy;
 - 32 (B) a claim for payment or benefit under an insurance policy;
 - 33 (C) premiums paid on an insurance policy;
 - 34 (D) payments made in accordance with the terms of an
 35 insurance policy;
 - 36 (E) an application for a certificate of authority;
 - 37 (F) the financial condition of an insurer; or
 - 38 (G) the acquisition of an insurer;

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

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

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

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

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

22 (1) obtains public relief or assistance by means of impersonation,
 23 fictitious transfer, false or misleading oral or written statement,
 24 ~~fraudulent~~ **fraudulent** conveyance, or other fraudulent means;
 25 (2) acquires, possesses, uses, transfers, sells, trades, issues, or
 26 disposes of:
 27 (A) an authorization document to obtain public relief or
 28 assistance; or
 29 (B) public relief or assistance;
 30 except as authorized by law;
 31 (3) uses, transfers, acquires, issues, or possesses a blank or
 32 incomplete authorization document to participate in public relief
 33 or assistance programs, except as authorized by law;
 34 (4) counterfeits or alters an authorization document to receive
 35 public relief or assistance, or knowingly uses, transfers, acquires,
 36 or possesses a counterfeit or altered authorization document to
 37 receive public relief or assistance; or
 38 (5) conceals information for the purpose of receiving public relief

1 or assistance to which ~~he~~ **the person** is not entitled;
 2 commits welfare fraud, a Class A misdemeanor, except as provided in
 3 subsection (b).

4 (b) The offense is:

5 (1) a Class D felony if

6 ~~(A) the amount of public relief or assistance involved is more~~
 7 ~~than two hundred fifty dollars (\$250)~~ **seven hundred fifty**
 8 **dollars (\$750)** but less than two thousand five hundred dollars
 9 ~~(\$2,500); or~~

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

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

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

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

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

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

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

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

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

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

1 (5) conceals information for the purpose of applying for or
 2 receiving unauthorized payments from the Medicaid program;
 3 commits Medicaid fraud, a Class D felony.

4 (b) The offense described in subsection (a) is a Class C felony if the
 5 fair market value of the offense is at least ~~one hundred thousand dollars~~
 6 ~~(\$100,000)~~; **fifty thousand dollars (\$50,000)**.

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

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

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

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

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

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

23 commits insurance fraud, a Class D felony.

24 (b) The offense described in subsection (a) is a Class C felony if the
 25 fair market value of the offense is at least ~~one hundred thousand dollars~~
 26 ~~(\$100,000)~~; **fifty thousand dollars (\$50,000)**.

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

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

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

38 commits **bank fraud**, a ~~Class C~~ **Class D** felony. **However, the offense**

1 **is a Class C felony if the total amount of property obtained is at**
 2 **least fifty thousand dollars (\$50,000).**

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

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

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

9 (3) a federal home loan bank or a member, as defined in Section
 10 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), as in
 11 effect on December 31, 1990, of the Federal Home Loan Bank
 12 System; or

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

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

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

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

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

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

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

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

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

34 (2) by:

35 (A) depositing the minimum initial deposit required to open an
 36 account; and

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

1 (3) by opening accounts with more than one (1) financial
 2 institution in either a consecutive or concurrent time period;
 3 commits check fraud, a Class D felony. However, the offense is a Class
 4 C felony if the person has a prior unrelated conviction under this
 5 section or the aggregate amount of property obtained is at least
 6 ~~twenty-five thousand dollars (\$25,000):~~ **fifty thousand dollars**
 7 **(\$50,000).**

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

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

12 ~~(A) manufactures;~~

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

14 ~~(C) delivers; or~~

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

16 ~~cocaine or a narcotic drug, pure or adulterated, classified in~~
 17 ~~schedule I or II; or~~

18 ~~(2) possesses, with intent to:~~

19 ~~(A) manufacture;~~

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

21 ~~(C) deliver; or~~

22 ~~(D) finance the delivery of;~~

23 ~~cocaine or a narcotic drug, pure or adulterated, classified in~~
 24 ~~schedule I or II;~~

25 ~~commits dealing in cocaine or a narcotic drug, a Class B felony; except~~
 26 ~~as provided in subsection (b):~~

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

28 ~~(1) the amount of the drug involved weighs three (3) grams or~~
 29 ~~more;~~

30 ~~(2) the person:~~

31 ~~(A) delivered; or~~

32 ~~(B) financed the delivery of;~~

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

35 ~~(3) the person manufactured, delivered, or financed the delivery~~
 36 ~~of the drug:~~

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

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

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

- 1 **or**
 2 **(2) the:**
 3 **(A) amount of the drug involved is three (3) grams or**
 4 **more; and**
 5 **(B) person:**
 6 **(i) manufactured or financed the manufacture of the**
 7 **drug; or**
 8 **(ii) delivered or financed the delivery of the drug on a**
 9 **school bus, or in, on, or within one thousand (1,000) feet**
 10 **of school property, a public park, a family housing**
 11 **complex, or a youth program center, or the person**
 12 **delivered the drug while possessing a firearm (as defined**
 13 **in IC 35-47-1-5).**

14 SECTION 67. IC 35-48-4-1.1, AS ADDED BY P.L.151-2006,
 15 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2011]: Sec. 1.1. (a) A person who:

- 17 (1) knowingly or intentionally:
 18 (A) manufactures;
 19 (B) finances the manufacture of;
 20 (C) delivers; or
 21 (D) 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 B felony, except as
 30 provided in subsection (b):
 31 (b) The offense is a Class A felony if:
 32 (1) the amount of the drug involved weighs three (3) grams or
 33 more;
 34 (2) the person:
 35 (A) delivered; or
 36 (B) financed the delivery of;
 37 the drug to a person under eighteen (18) years of age at least three
 38 (3) years junior to the person; or

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

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

18 SECTION 68. IC 35-48-4-2 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person who:

- 20 (1) knowingly or intentionally:
 21 (A) manufactures;
 22 (B) finances the manufacture of;
 23 (C) delivers; or
 24 (D) finances the delivery of;
 25 a controlled substance, pure or adulterated, classified in schedule
 26 I, H, or HH, except marijuana, hash oil, or hashish; or
 27 (2) possesses, with intent to:
 28 (A) manufacture;
 29 (B) finance the manufacture of;
 30 (C) deliver; or
 31 (D) finance the delivery of;
 32 a controlled substance, pure or adulterated, classified in schedule
 33 I, H, or HH, except marijuana, hash oil, or hashish;
 34 commits dealing in a schedule I, H, or HH controlled substance; a Class
 35 B felony; except as provided in subsection (b):
 36 (b) The offense is a Class A felony if:
 37 (1) the person:
 38 (A) delivered; or

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

- 1 (ii) a public park;
 2 (iii) a family housing complex; or
 3 (iv) a youth program center; or
 4 (5) the person delivered the substance while possessing a
 5 firearm (as defined in IC 35-47-1-5).

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

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

- 25 (b) The offense is:
 26 (1) a Class C felony if:
 27 (A) the amount of the drug involved (pure or adulterated)
 28 weighs three (3) grams or more; or
 29 (B) the person was also in possession of a firearm (as defined
 30 in IC 35-47-1-5);
 31 (2) a Class B felony if the person in possession of the cocaine or
 32 narcotic drug possesses less than three (3) grams of pure or
 33 adulterated cocaine or a narcotic drug:
 34 (A) on a school bus; or
 35 (B) in, on, or within one thousand (1,000) feet of:
 36 (i) school property;
 37 (ii) a public park;
 38 (iii) a family housing complex; or

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

- 1 in IC 35-47-1-5);
- 2 (2) a Class B felony if the person in possession of the
- 3 methamphetamine possesses less than three (3) grams of pure or
- 4 adulterated methamphetamine:
- 5 (A) on a school bus; or
- 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; and
- 11 (3) a Class A felony if the person possesses the methamphetamine
- 12 in an amount (pure or adulterated) weighing at least three (3)
- 13 grams:
- 14 (A) on a school bus; or
- 15 (B) in, on, or within one thousand (1,000) feet of:
- 16 (i) school property;
- 17 (ii) a public park;
- 18 (iii) a family housing complex; or
- 19 (iv) a youth program center.
- 20 **(b) The offense is a Class C felony if:**
- 21 **(1) the amount of the drug involved, pure or adulterated,**
- 22 **weighs three (3) grams or more but less than ten (10) grams;**
- 23 **or**
- 24 **(2) the person possesses the drug;**
- 25 **(A) on a school bus;**
- 26 **(B) in, on, or within one thousand (1,000) feet of:**
- 27 **(i) school property;**
- 28 **(ii) a public park;**
- 29 **(iii) a family housing complex; or**
- 30 **(iv) a youth program center; or**
- 31 **(C) while the person was also in possession of a firearm (as**
- 32 **defined in IC 35-47-1-5).**
- 33 **(c) The offense is a Class B felony if the amount of the drug**
- 34 **involved, pure or adulterated, weighs ten (10) grams or more.**
- 35 SECTION 71. IC 35-48-4-11 IS AMENDED TO READ AS
- 36 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. A person who:
- 37 (1) knowingly or intentionally possesses (pure or adulterated)
- 38 marijuana, hash oil, or hashish;

- 1 (2) knowingly or intentionally grows or cultivates marijuana; or
 2 (3) knowing that marijuana is growing on his premises, fails to
 3 destroy the marijuana plants;

4 commits possession of marijuana, hash oil, or hashish, a Class A
 5 misdemeanor. However, the offense is a Class D felony ~~(†)~~ if the
 6 amount involved is more than thirty (30) grams of marijuana or two (2)
 7 grams of hash oil or hashish. ~~or (ii) if the person has a prior conviction~~
 8 ~~of an offense involving marijuana, hash oil, or hashish.~~

9 SECTION 72. IC 35-50-2-2, AS AMENDED BY P.L.64-2008,
 10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2011]: Sec. 2. (a) The court may suspend any part of a
 12 sentence for a felony, except as provided in this section. ~~or in section~~
 13 ~~2.1 of this chapter.~~

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

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

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

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

37 ~~(4)~~ (3) The felony committed was:

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

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

- 1 delivered or intended to deliver to a person under eighteen
 2 (18) years of age at least three (3) years junior to the person
 3 and was on a school bus or within one thousand (1,000) feet
 4 of:
- 5 (i) school property;
 - 6 (ii) a public park;
 - 7 (iii) a family housing complex; or
 - 8 (iv) a youth program center;
- 9 (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court
 10 finds the person possessed a firearm (as defined in
 11 IC 35-47-1-5) at the time of the offense, or the person
 12 delivered or intended to deliver the methamphetamine pure or
 13 adulterated to a person under eighteen (18) years of age at
 14 least three (3) years junior to the person and was on a school
 15 bus or within one thousand (1,000) feet of:
- 16 (i) school property;
 - 17 (ii) a public park;
 - 18 (iii) a family housing complex; or
 - 19 (iv) a youth program center;
- 20 (Q) dealing in a schedule I, II, or III controlled substance (IC
 21 35-48-4-2) if the court finds the person possessed a firearm (as
 22 defined in IC 35-47-1-5) at the time of the offense, or the
 23 person delivered or intended to deliver to a person under
 24 eighteen (18) years of age at least three (3) years junior to the
 25 person and was on a school bus or within one thousand (1,000)
 26 feet of:
- 27 (i) school property;
 - 28 (ii) a public park;
 - 29 (iii) a family housing complex; or
 - 30 (iv) a youth program center;
- 31 (R) an offense under IC 9-30-5 (operating a vehicle while
 32 intoxicated) and the person who committed the offense has
 33 accumulated at least two (2) prior unrelated convictions under
 34 IC 9-30-5;
- 35 (S) an offense under IC 9-30-5-5(b) (operating a vehicle while
 36 intoxicated causing death);
- 37 (T) aggravated battery (IC 35-42-2-1.5); or
- 38 (U) disarming a law enforcement officer (IC 35-44-3-3.5).

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

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

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

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

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

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

21 (i) If a person is:

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

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

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

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

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

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

1 ~~35-48-4-2~~);
 2 (iv) dealing in a schedule IV controlled substance (~~IC~~
 3 ~~35-48-4-3~~); and
 4 (v) dealing in a schedule V controlled substance (~~IC~~
 5 ~~35-48-4-4~~);
 6 does not exceed one (1).

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

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

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

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

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

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

35 (2) "Substance offense" means a Class A misdemeanor or a felony
 36 in which the possession, use, abuse, delivery, transportation, or
 37 manufacture of alcohol or drugs is a material element of the
 38 crime. The term includes an offense under IC 9-30-5 and an

1 offense under IC 9-11-2 (before its repeal).

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

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

11 (1) it has been set aside; or

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

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

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

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

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

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

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

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

1 if:

2 (1) it has been set aside; or

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

4 (d) If the person was convicted of the sex offense in a jury trial, the
5 jury shall reconvene to hear evidence in the enhancement hearing. If
6 the trial was to the court, or the judgment was entered on a guilty plea,
7 the court alone shall hear evidence in the enhancement hearing.

8 (e) A person is a repeat sexual offender if the jury (if the hearing is
9 by jury) or the court (if the hearing is to the court alone) finds that the
10 state has proved beyond a reasonable doubt that the person had
11 accumulated one (1) prior unrelated felony sex offense conviction.

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

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

19 **Chapter 21. County Offender Fund**

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

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

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

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

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

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

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

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

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

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

15 ~~(2) (1) April, May, June, July, August, and September of 2010;~~
16 and

17 ~~(3) (2) June, July, August, and September, and October of 2011.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 23 (1) minutes of each meeting; and
- 24 (2) the final report.

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

- 27 (1) advise the commission on legal matters, criminal procedures,
28 and legal research; and
- 29 (2) draft potential legislation.

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

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

37 ~~(o)~~ **(p)** Except as otherwise specifically provided by this SECTION,
38 the commission shall operate under the rules of the legislative council.

1 All funds necessary to carry out this SECTION shall be paid from
2 appropriations to the legislative council and the legislative services
3 agency.

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

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

- 10 (1) **the original charges;**
- 11 (2) **the terms of any plea agreement;**
- 12 (3) **whether the jury found the offender guilty of lesser**
- 13 **included offenses; and**
- 14 (4) **any other information that would allow a more accurate**
- 15 **assessment of an offender's character.**

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

17 SECTION 79. THE FOLLOWING ARE REPEALED [EFFECTIVE
18 JULY 1, 2011]: IC 35-43-4-2.5; IC 35-43-5-3.6; IC 35-50-2-2.1.

(Reference is to SB 561 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 2.

Steele

Chairperson