



February 22, 2012

**ENGROSSED
HOUSE BILL No. 1011**

DIGEST OF HB 1011 (Updated February 21, 2012 1:23 pm - DI 107)

Citations Affected: IC 11-8; IC 11-10; IC 11-13; IC 16-41; IC 31-37; IC 33-24; IC 35-38; IC 35-50; IC 36-2.

Synopsis: Various corrections matters. Requires the department of correction (department) to: (1) determine the average daily marginal cost of incarcerating an offender; (2) determine the average length of stay for certain Class D felony offenders committed to the department; and (3) administer an incentive and disincentive program under which counties are rewarded for reducing the number of Class D felony offenders committed to the department and are penalized for increasing the number. Establishes the probation improvement fund administered by the judicial conference to award grants based on the recommendation by the department to: (1) county probation departments that supervise persons convicted of a felony to promote the adoption of certain best practices to improve probation administration and services and reduce probation revocations; and (2) (Continued next page)

Effective: Upon passage; July 1, 2012; July 1, 2013.

Foley, Steuerwald, Pierce, Lawson L
(SENATE SPONSORS — BRAY, HEAD, TAYLOR, HUME)

January 9, 2012, read first time and referred to Committee on Courts and Criminal Code.
January 27, 2012, amended, reported — Do Pass.
January 30, 2012, read second time, ordered engrossed. Engrossed.
January 31, 2012, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 21, 2012, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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counties that supervise persons who have been convicted of a felony to consolidate and improve the efficiency of probation administration and services and community corrections programs. Provides that the probation improvement fund consists of appropriations from the general assembly and funds from savings realized by the department due to fewer Class D felons being committed to the department and certain disincentive funds. Creates the forensic addiction fund to create a funding source for grants to probation departments and community corrections programs to increase substance abuse treatment access for individuals on probation or in a community corrections program. Requires the judicial conference of Indiana to administer the fund. Requires a sentencing court to inform the department if the person sentenced is a credit restricted felon. Requires a court that determines that a person sentenced is a credit restricted felon to state in the sentencing order and the abstract of judgment that the person is a credit restricted felon. Requires the judicial conference to adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation. Provides procedures for a person on probation to be sanctioned by a probation officer. Requires that credit time earned by certain offenders shall be reduced to the extent that application of the credit time would result in postconviction release or a community transition program assignment in less than 45 days after the person earns the credit time. Requires the department to: (1) establish an automated victim notification system; and (2) notify a registered crime victim of certain changes affecting the committed offender who committed the crime against the victim. Specifies when the department shall make certain victim notifications. Provides that if a court imposes a felony sentence that involves a commitment to the department, the court shall state certain information in the sentencing order and abstract of judgment. Requires the division of state court administration to submit a report to the department detailing the number of Class D felony convictions for each county. Requires each county to establish a county offender fund. (The introduced version of this bill was prepared by the criminal code evaluation commission.)

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February 22, 2012

Second Regular Session 117th General Assembly (2012)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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ENGROSSED HOUSE BILL No. 1011

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

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

- 1 SECTION 1. IC 11-8-1-3.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 3.1. "Average daily marginal cost of incarcerating an
4 offender" means the average daily cost to the department to
5 commit one (1) additional offender to the department, as
6 determined under IC 11-10-13-1(b).**
- 7 SECTION 2. IC 11-8-7-2, AS ADDED BY P.L.64-2005, SECTION
8 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
9 2012]: Sec. 2. (a) The department ~~may~~ **shall** establish an automated
10 victim notification system that must do the following:
- 11 (1) Automatically notify a registered crime victim when a
12 committed offender who committed the crime against the victim:
13 (A) is assigned to a:
14 (i) department facility; or
15 (ii) county jail or any other facility not operated by the

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- 1 department;
- 2 (B) is transferred to a:
- 3 (i) department facility; or
- 4 (ii) county jail or any other facility not operated by the
- 5 department;
- 6 (C) is given a different security classification;
- 7 (D) is released on temporary leave;
- 8 (E) is discharged; or
- 9 (F) has escaped;
- 10 **(G) has a change in the committed offender's expected date**
- 11 **of release from incarceration;**
- 12 **(H) is scheduled to have a parole release hearing;**
- 13 **(I) has requested clemency or pardon consideration;**
- 14 **(J) is to be placed in a minimum security:**
- 15 **(i) facility; or**
- 16 **(ii) work release program;**
- 17 **or is permitted to participate in another minimum security**
- 18 **assignment; or**
- 19 **(K) dies during the committed offender's period of**
- 20 **incarceration.**
- 21 (2) Allow a registered crime victim to receive the most recent
- 22 status report for an offender by calling the automated victim
- 23 notification system on a toll free telephone number.
- 24 (3) Allow a crime victim to register or update the victim's
- 25 registration for the automated victim notification system by
- 26 calling a toll free telephone number.
- 27 (b) For purposes of subsection (a), ~~if the department establishes an~~
- 28 ~~automated victim notification system,~~ a sheriff responsible for the
- 29 operation of a county jail shall immediately notify the department if a
- 30 committed offender:
- 31 (1) is transferred to another county jail or another facility not
- 32 operated by the department of correction;
- 33 (2) is released on temporary leave;
- 34 (3) is discharged; or
- 35 (4) has escaped.
- 36 Sheriffs and other law enforcement officers and prosecuting attorneys
- 37 shall cooperate with the department in establishing and maintaining an
- 38 automated victim notification system.
- 39 (c) An automated victim notification system may transmit
- 40 information to a person by:
- 41 (1) telephone;
- 42 (2) electronic mail; or

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1 (3) another method as determined by the department.
 2 (d) The department shall provide the opportunity for a
 3 registered crime victim to receive periodic status reports
 4 concerning the committed offender who committed the crime
 5 against the registered crime victim, including reports stating:
 6 (1) the committed offender's projected date of release from
 7 imprisonment;
 8 (2) the facility where the committed offender is imprisoned;
 9 and
 10 (3) the current security classification of the committed
 11 offender.
 12 (e) A registered crime victim may choose to receive a status
 13 report described in subsection (d):
 14 (1) annually;
 15 (2) quarterly;
 16 (3) monthly; or
 17 (4) when triggered by an event described in subsection (a)(1).
 18 SECTION 3. IC 11-10-13-1 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The department
 20 shall develop a methodology for determining the average daily cost of
 21 incarcerating an offender.
 22 (b) The department shall develop a methodology for
 23 determining the average daily marginal cost of incarcerating an
 24 offender. The costs to be considered in determining the average
 25 daily marginal cost of incarcerating an offender:
 26 (1) must include the additional expenses of providing food,
 27 clothing, and health care to a new offender; and
 28 (2) do not include the costs of new facilities or additional staff.
 29 SECTION 4. IC 11-10-16 IS ADDED TO THE INDIANA CODE
 30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2013]:
 32 **Chapter 16. County Incentives and Disincentives for Class D**
 33 **Felony Offenders**
 34 **Sec. 1. The department shall administer a local rehabilitation**
 35 **incentive and disincentive program under which counties may:**
 36 (1) reduce the number of Class D felony offenders committed
 37 to the department; and
 38 (2) maintain fewer Class D felony offender commitments to
 39 the department.
 40 **Sec. 2. (a) The department shall determine the average length of**
 41 **stay for a Class D felony offender who has an executed sentence of**
 42 **less than one (1) year in the department for calendar year 2011.**

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1 (b) The average length of stay determined under subsection (a)
2 must be expressed in days and must express the average number
3 of days an offender described in subsection (a) is incarcerated with
4 the department in a one (1) year period.

5 Sec. 3. (a) Before September 1, 2013, the department shall
6 establish a baseline average number of Class D felony offenders
7 committed annually to the department by each county based on
8 each county's Class D felony commitments to the department in the
9 2008, 2009, 2010, and 2011 calendar years.

10 (b) Each year after 2013, the department shall provide a local
11 rehabilitation incentive to each county that commits to the
12 department in one (1) calendar year fewer Class D felony offenders
13 than the baseline average established for that county under
14 subsection (a). Each county that has a reduction in Class D felony
15 commitments for a calendar year is entitled to an incentive based
16 on the reduction in the department's incarceration costs
17 attributable to the county's reduction in Class D felony
18 commitments, as determined according to the formula set forth in
19 subsection (c).

20 (c) Before March 1 of each year, the department shall calculate
21 the incentive described in subsection (b) for each county using the
22 following formula:

23 **STEP ONE:** Subtract the number of Class D felony offenders
24 committed to the department by the county in the previous
25 calendar year from the baseline average established for the
26 county under subsection (a).

27 **STEP TWO:** If the STEP ONE remainder is not positive, the
28 incentive amount for the county is zero (0). If the STEP ONE
29 remainder is positive, multiply the number determined under
30 STEP ONE by the average length of stay for a Class D felony
31 offender in the department, as determined under section 2 of
32 this chapter.

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

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

38 Sec. 4. (a) Each year after 2013, the department shall impose a
39 disincentive to each county that in one (1) calendar year commits
40 to the department:

41 (1) more than ten (10) more Class D felony offenders than the
42 baseline average established for the county under section 3(a)

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1 of this chapter; or
2 (2) more offenders than one hundred five percent (105%) of
3 the baseline average established for the county under section
4 3(a) of this chapter;

5 whichever is greater.

6 (b) Before March 1 of each year, the department shall calculate
7 the disincentive described in subsection (a) for each county using
8 the following formula:

9 STEP ONE: Subtract the baseline average established for the
10 county under section 3(a) of this chapter from the number of
11 Class D felony offenders committed to the department by the
12 county in the previous calendar year.

13 STEP TWO: If the STEP ONE remainder is ten (10) or less or
14 less than one hundred five percent (105%) of the baseline
15 average established for the county under section 3(a) of this
16 chapter, the disincentive amount is zero (0). Otherwise,
17 multiply the number determined under STEP ONE by the
18 average length of stay for a Class D felony offender in the
19 department, as determined under section 2 of this chapter.

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

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

25 Sec. 5. The department shall withhold the amount of the
26 disincentive calculated for a county for a particular year under
27 section 4 of this chapter from the amount of money the department
28 is otherwise required to deposit in a county's misdemeanor fund
29 under IC 11-12-6-13 before September 1 of that year. The amount
30 withheld under this section shall be deposited in the probation
31 improvement fund established under IC 11-13-2.5.

32 Sec. 6. (a) Before September 1, 2014, the department, using the
33 information collected under IC 33-24-6-3(a)(2)(F) in the report
34 published by the division of state court administration under
35 IC 33-24-6-3(a)(3) for calendar year 2013 and the number of Class
36 D felony offender commitments made to the department in
37 calendar year 2013, shall determine a baseline average percentage
38 for purposes of this section. The baseline average percentage is the
39 result determined in the last STEP of the following formula:

40 STEP ONE: For each county, determine:

41 (A) the number of offenders convicted of Class D felonies
42 in the county in calendar year 2011; and

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- 1 (B) of that number, the percentage of Class D felony
 2 offenders who were committed to the department.
 3 **STEP TWO: Determine the quotient of:**
 4 (A) the sum of the amounts determined under STEP ONE;
 5 divided by
 6 (B) the number of counties in Indiana.
- 7 (b) Each year after 2013, the department shall provide a local
 8 corrections incentive to each county that does not commit a larger
 9 percentage of its Class D felony offenders to the department than
 10 the baseline average percentage determined under subsection (a),
 11 as determined under subsection (c).
- 12 (c) Before March 1 of each year, the department shall determine
 13 a county's eligibility for the incentive described in subsection (b)
 14 using the following formula:
 15 **STEP ONE: Determine for a county the number of Class D**
 16 **felony offenders committed to the department by the county**
 17 **in the previous calendar year.**
 18 **STEP TWO: Determine the percentage of Class D felony**
 19 **offenders committed to the department by the county in the**
 20 **previous calendar year by dividing:**
 21 (A) the STEP ONE number; by
 22 (B) the total number of Class D felony convictions in that
 23 county in the previous calendar year, as determined using
 24 the information collected under IC 33-24-6-3(a)(2)(F) in
 25 the report published by the division of state court
 26 administration under IC 33-24-6-3(a)(3).
- 27 **STEP THREE: If the county's percentage of Class D felony**
 28 **offenders committed to the department, as calculated under**
 29 **STEP TWO, is lower than the baseline average percentage**
 30 **determined under subsection (a), the county is eligible for an**
 31 **incentive described in subsection (d).**
- 32 (d) The incentive under this section shall be paid from funds
 33 remaining from the marginal savings realized by the department
 34 as a result of the counties committing fewer Class D felony
 35 offenders to the department after the incentives calculated under
 36 section 3 of this chapter have been distributed. The department
 37 may adopt rules under IC 4-22-2 to distribute the remaining funds
 38 to eligible counties equitably, with the amount of each county's
 39 incentive being proportional to the extent to which savings realized
 40 by the department are attributable to the county's reduction in the
 41 percentage of the county's Class D felony offenders who are
 42 committed to the department.

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1 **Sec. 7. (a) Before June 1 of each year, the local incentives**
 2 **calculated under sections 3 and 6 of this chapter shall be provided**
 3 **from the marginal savings realized by the department as a result**
 4 **of the counties committing fewer Class D felony offenders to the**
 5 **department and shall be distributed to a county's county offender**
 6 **fund under IC 36-2-21. The county fiscal body shall redistribute**
 7 **the incentives as set forth in IC 36-2-21-1.**

8 **(b) If a county has a local community corrections advisory**
 9 **board, the local community corrections advisory board shall make**
 10 **a recommendation to the county's fiscal body regarding how local**
 11 **incentive funds should be distributed.**

12 **Sec. 8. In making the calculations required under this chapter,**
 13 **the department may not consider a Class D felony offender:**

14 **(1) whose probation has been revoked after the offender was**
 15 **previously incarcerated for the felony by the department in a**
 16 **department facility;**

17 **(2) whose participation in a community corrections program**
 18 **has been terminated as a result of a violation of program**
 19 **requirements;**

20 **(3) whose participation in a problem solving court program**
 21 **has been terminated as a result of a violation of program**
 22 **requirements; or**

23 **(4) who is committed temporarily to the department under**
 24 **IC 35-33-11-1.**

25 **Sec. 9. This chapter does not affect the rate that the department**
 26 **pays to house an offender in a jail under IC 35-33-11.**

27 **Sec. 10. The department may adopt rules under IC 4-22-2 to**
 28 **implement this chapter.**

29 SECTION 5. IC 11-13-1-8, AS AMENDED BY P.L.1-2007,
 30 SECTION 102, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) As used in this section,
 32 "board" refers to the board of directors of the judicial conference of
 33 Indiana established by IC 33-38-9-3.

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

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

38 **(2) compensation of probation officers;**

39 **(3) protection of probation records and disclosure of information**
 40 **contained in those records; and**

41 **(4) presentence investigation reports;**

42 **(5) a schedule of progressive probation incentives and**

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1 **violation sanctions, including judicial review procedures; and**
 2 **(6) qualifications for probation officers to administer**
 3 **probation violation sanctions under IC 35-38-2-3(e).**

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

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

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

- 16 (1) the implementation and management of probation case
 17 classification; and
- 18 (2) the development and use of workload information.

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

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

- 27 (1) Eligibility standards.
- 28 (2) Testing requirements and procedures.
- 29 (3) Procedures and requirements for placement in programs
 30 provided by school corporations or special education cooperatives
 31 under IC 20-35-5.
- 32 (4) Procedures and requirements for placement in residential
 33 special education institutions or facilities under IC 20-35-6-2 and
 34 511 IAC 7-27-12.
- 35 (5) Development and implementation of individual education
 36 programs for eligible children in:
 - 37 (A) accordance with applicable requirements of state and
 38 federal laws and rules; and
 - 39 (B) coordination with:
 - 40 (i) individual case plans; and
 - 41 (ii) informal adjustment programs or dispositional decrees
 42 entered by courts having juvenile jurisdiction under

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

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

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

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

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

18 (2) methods and procedure for the administration of probation,
 19 including investigation, supervision, workloads, record keeping,
 20 and reporting; and

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

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

24 SECTION 6. IC 11-13-2.5 IS ADDED TO THE INDIANA CODE
 25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2012]:

27 **Chapter 2.5. Probation Improvement Fund**

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

30 **Sec. 2. (a) The probation improvement fund is established to**
 31 **provide grants under sections 3 and 4 of this chapter. The fund**
 32 **shall be administered by the judicial conference of Indiana.**

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

34 **(1) Donations, gifts, and money received from any other**
 35 **source, including transfers from other funds or accounts.**

36 **(2) Appropriations from the general assembly.**

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

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



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

3 Sec. 3. (a) After the department of correction makes a
4 recommendation to the judicial conference of Indiana, the judicial
5 conference may award a grant from the fund to a county probation
6 department that supervises persons who have been convicted of a
7 felony to:

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

10 (A) to:

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

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

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

22 (B) as approved by the judicial conference of Indiana; and

23 (2) reduce the number of probation revocations:

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

27 (B) resulting in a person serving a prison sentence.

28 (b) To receive a grant under this section, a county probation
29 department must submit an application to the judicial conference
30 of Indiana:

31 (1) on a form; and

32 (2) in the manner;

33 prescribed by the judicial conference of Indiana.

34 (c) The judicial conference of Indiana shall determine the
35 amount of a grant awarded under this section.

36 Sec. 4. (a) The judicial conference of Indiana:

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

40 (A) probation administration and services; and

41 (B) community corrections programs;

42 in the county; and

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

7 (b) To receive a grant under this section, a county must submit
8 an application to the judicial conference of Indiana:

- 9 (1) on a form; and
- 10 (2) in the manner;

11 prescribed by the judicial conference of Indiana.

12 (c) The judicial conference of Indiana shall determine the
13 amount of a grant awarded under this section.

14 Sec. 5. The judicial conference of Indiana may adopt rules
15 necessary to implement this chapter.

16 Sec. 6. Counties may coordinate resources and programming
17 with funds received under this chapter.

18 SECTION 7. IC 11-13-2.7 IS ADDED TO THE INDIANA CODE
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2012]:

21 Chapter 2.7. Forensic Addiction Fund

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

24 Sec. 2. (a) The forensic addiction fund is established to provide
25 grants under section 3 of this chapter. The judicial conference of
26 Indiana shall administer the fund.

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

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

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

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

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

39 Sec. 3. (a) The judicial conference of Indiana may award a grant
40 from the fund to a probation department or a community
41 corrections program to increase substance abuse treatment access
42 for individuals on probation or individuals placed in a community

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1 corrections program who are under court supervision and who
 2 have been diagnosed with a substance abuse disorder or
 3 co-occurring disorder.

4 (b) To receive a grant under this section, a probation
 5 department or community corrections program and the agency
 6 that will be providing treatment if the grant is approved must
 7 submit an application to the judicial conference of Indiana:

8 (1) on a form; and

9 (2) in the manner;

10 prescribed by the judicial conference of Indiana.

11 (c) The judicial conference of Indiana shall determine the
 12 amount of a grant awarded under this section in consultation with
 13 the division of mental health and addiction and the local probation
 14 department or community corrections program.

15 (d) Mental health and substance abuse counseling provided by
 16 grants under this section must be contracted for with a certified
 17 mental health or addiction provider as determined by the division
 18 of mental health and addiction.

19 **Sec. 4. The judicial conference of Indiana may adopt rules
 20 necessary to implement this section.**

21 SECTION 8. IC 11-13-3-3, AS AMENDED BY P.L.105-2010,
 22 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2012]: Sec. 3. (a) A person sentenced under IC 35-50 shall be
 24 released on parole or discharged from the person's term of
 25 imprisonment under IC 35-50 without a parole release hearing.

26 (b) A person sentenced for an offense under laws other than
 27 IC 35-50 who is eligible for release on parole, or a person whose parole
 28 is revoked and is eligible for reinstatement on parole under rules
 29 adopted by the parole board shall, before the date of the person's parole
 30 eligibility, be granted a parole release hearing to determine whether
 31 parole will be granted or denied. The hearing shall be conducted by one
 32 (1) or more of the parole board members. If one (1) or more of the
 33 members conduct the hearing on behalf of the parole board, the final
 34 decision shall be rendered by the full parole board based upon the
 35 record of the proceeding and the hearing conductor's findings. Before
 36 the hearing, the parole board shall order an investigation to include the
 37 collection and consideration of:

38 (1) reports regarding the person's medical, psychological,
 39 educational, vocational, employment, economic, and social
 40 condition and history;

41 (2) official reports of the person's history of criminality;

42 (3) reports of earlier parole or probation experiences;



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- 1 (4) reports concerning the person's present commitment that are
- 2 relevant to the parole release determination;
- 3 (5) any relevant information submitted by or on behalf of the
- 4 person being considered; and
- 5 (6) such other relevant information concerning the person as may
- 6 be reasonably available.

7 (c) Unless the victim has requested in writing not to be notified, the
 8 department shall notify a victim of a felony (or the next of kin of the
 9 victim if the felony resulted in the death of the victim) or any witness
 10 involved in the prosecution of an offender imprisoned for the
 11 commission of a felony when the offender is:

- 12 (1) to be discharged from imprisonment;
- 13 (2) to be released on parole under IC 35-50-6-1;
- 14 (3) to have a parole release hearing under this chapter;
- 15 (4) to have a parole violation hearing;
- 16 (5) an escaped committed offender; or
- 17 (6) to be released from departmental custody under any temporary
 18 release program administered by the department, including the
 19 following:

20 (A) Placement on minimum security assignment to a program
 21 authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring
 22 periodic reporting to a designated official, including a
 23 regulated community assignment program.

24 (B) Assignment to a minimum security work release program.

25 (d) The department shall make the notification required under
 26 subsection (c):

27 **(1) not later than twenty-four (24) hours after the escape of a**
 28 **committed offender;**

29 ~~(2)~~ **(2)** at least forty (40) days before: a

30 **(A) the discharge or release of a committed offender; or**

31 **(B) the date of a hearing occurs; concerning a committed**
 32 **offender's possible discharge or release; and**

33 ~~(2)~~ **(3) if the date of a committed offender's discharge or**
 34 **release as referred to in subdivision (2)(A) is changed during**
 35 **the forty (40) day notification period referred to in**
 36 **subdivision (2), not later more than twenty-four (24) hours after**
 37 **the escape of a committed offender. forty-eight (48) hours after**
 38 **the change in the discharge or release date.**

39 The department shall supply the information to a victim (or a next of
 40 kin of a victim in the appropriate case) and a witness at the address
 41 supplied to the department by the victim (or next of kin) or witness. A
 42 victim (or next of kin) is responsible for supplying the department with

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1 any change of address or telephone number of the victim (or next of
2 kin).

3 (e) The probation officer conducting the presentence investigation
4 shall inform the victim and witness described in subsection (c), at the
5 time of the interview with the victim or witness, of the right of the
6 victim or witness to receive notification from the department under
7 subsection (c). The probation department for the sentencing court shall
8 forward the most recent list of the addresses or telephone numbers, or
9 both, of victims to the department of correction. The probation
10 department shall supply the department with the information required
11 by this section as soon as possible but not later than five (5) days from
12 the receipt of the information from the victim. A victim (or next of kin)
13 is responsible for supplying the department with the correct address
14 and telephone number of the victim (or next of kin).

15 (f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not
16 have access to the name and address of a victim and a witness. Upon
17 the filing of a motion by any person requesting or objecting to the
18 release of victim information, witness information, or both that is
19 retained by the department, the court shall review the information that
20 is the subject of the motion in camera before ruling on the motion.

21 (g) The notice required under subsection (c) must specify whether
22 the prisoner is being discharged, is being released on parole, is being
23 released on lifetime parole, is having a parole release hearing, is having
24 a parole violation hearing, or has escaped. The notice must contain the
25 following information:

- 26 (1) The name of the prisoner.
- 27 (2) The date of the offense.
- 28 (3) The date of the conviction.
- 29 (4) The felony of which the prisoner was convicted.
- 30 (5) The sentence imposed.
- 31 (6) The amount of time served.
- 32 (7) The date and location of the interview (if applicable).

33 (h) The parole board shall adopt rules under IC 4-22-2 and make
34 available to offenders the criteria considered in making parole release
35 determinations. The criteria must include the:

- 36 (1) nature and circumstances of the crime for which the offender
37 is committed;
- 38 (2) offender's prior criminal record;
- 39 (3) offender's conduct and attitude during the commitment; and
- 40 (4) offender's parole plan.

41 (i) The hearing prescribed by this section may be conducted in an
42 informal manner without regard to rules of evidence. In connection

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- 1 with the hearing, however:
- 2 (1) reasonable, advance written notice, including the date, time,
- 3 and place of the hearing shall be provided to the person being
- 4 considered;
- 5 (2) the person being considered shall be given access, in accord
- 6 with IC 11-8-5, to records and reports considered by the parole
- 7 board in making its parole release decision;
- 8 (3) the person being considered may appear, speak in the person's
- 9 own behalf, and present documentary evidence;
- 10 (4) irrelevant, immaterial, or unduly repetitious evidence shall be
- 11 excluded; and
- 12 (5) a record of the proceeding, to include the results of the parole
- 13 board's investigation, notice of the hearing, and evidence adduced
- 14 at the hearing, shall be made and preserved.
- 15 (j) If parole is denied, the parole board shall give the person written
- 16 notice of the denial and the reasons for the denial. The parole board
- 17 may not parole a person if it determines that there is substantial reason
- 18 to believe that the person:
- 19 (1) will engage in further specified criminal activity; or
- 20 (2) will not conform to appropriate specified conditions of parole.
- 21 (k) If parole is denied, the parole board shall conduct another parole
- 22 release hearing not earlier than five (5) years after the date of the
- 23 hearing at which parole was denied. However, the board may conduct
- 24 a hearing earlier than five (5) years after denial of parole if the board:
- 25 (1) finds that special circumstances exist for the holding of a
- 26 hearing; and
- 27 (2) gives reasonable notice to the person being considered for
- 28 parole.
- 29 (l) The parole board may parole a person who is outside Indiana on
- 30 a record made by the appropriate authorities of the jurisdiction in
- 31 which that person is imprisoned.
- 32 (m) If the board is considering the release on parole of an offender
- 33 who is serving a sentence of life in prison, a determinate term of
- 34 imprisonment of at least ten (10) years, or an indeterminate term of
- 35 imprisonment with a minimum term of at least ten (10) years, in
- 36 addition to the investigation required under subsection (b), except as
- 37 provided in subsection (n), the board may order and consider a
- 38 community investigation, which may include an investigation and
- 39 report that substantially reflects the attitudes and opinions of:
- 40 (1) the community in which the crime committed by the offender
- 41 occurred;
- 42 (2) law enforcement officers who have jurisdiction in the

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- 1 community in which the crime occurred;
- 2 (3) the victim of the crime committed by the offender, or if the
- 3 victim is deceased or incompetent for any reason, the victim's
- 4 relatives or friends; and
- 5 (4) friends or relatives of the offender.

6 If the board reconsiders for release on parole an offender who was
 7 previously released on parole and whose parole was revoked under
 8 section 10 of this chapter, the board may use a community investigation
 9 prepared for an earlier parole hearing to comply with this subsection.
 10 However, the board shall accept and consider any supplements or
 11 amendments to any previous statements from the victim or the victim's
 12 relatives or friends.

13 (n) The board shall conduct the community investigation described
 14 in subsection (m) if:

- 15 (1) the person was convicted of a crime of violence (as defined in
- 16 IC 35-50-1-2); or
- 17 (2) the person is a sex offender (as defined in IC 11-8-8-4.5).

18 (o) As used in this section, "victim" means a person who has
 19 suffered direct harm as a result of a violent crime (as defined in
 20 IC 5-2-6.1-8).

21 SECTION 9. IC 16-41-6-1, AS AMENDED BY P.L.94-2010,
 22 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2012]: Sec. 1. (a) Except as provided in IC 16-41-8-6,
 24 IC 16-41-10-2.5, and subsection (b), a person may not perform a
 25 screening or confirmatory test for the antibody or antigen to HIV
 26 without the oral or written consent of the individual to be tested or a
 27 representative as authorized under IC 16-36-1. A physician ordering
 28 the test or the physician's authorized representative shall document
 29 whether or not the individual has consented. The test for the antibody
 30 or antigen to HIV may not be performed on a woman under section 5
 31 or 6 of this chapter if the woman refuses under section 7 of this chapter
 32 to consent to the test.

33 (b) The test for the antibody or antigen to HIV may be performed if
 34 one (1) of the following conditions exists:

- 35 (1) If ordered by a physician who has obtained a health care
- 36 consent under IC 16-36-1 or an implied consent under emergency
- 37 circumstances and the test is medically necessary to diagnose or
- 38 treat the patient's condition.
- 39 (2) Under a court order based on clear and convincing evidence
- 40 of a serious and present health threat to others posed by an
- 41 individual. A hearing held under this subsection shall be held in
- 42 camera at the request of the individual.

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- 1 (3) If the test is done on blood collected or tested anonymously as
 2 part of an epidemiologic survey under IC 16-41-2-3 or
 3 IC 16-41-17-10(a)(5).
 4 (4) The test is ordered under section 4 of this chapter.
 5 (5) The test is required or authorized under IC 11-10-3-2.5.
 6 (c) A court may order a person to undergo testing for HIV under
 7 IC 35-38-1-10.5(a) or ~~IC 35-38-2-2.3(a)(16)~~; **IC 35-38-2-2.3(a)(17)**.
 8 SECTION 10. IC 31-37-19-1, AS AMENDED BY P.L.146-2008,
 9 SECTION 647, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Subject to section 6.5 of this
 11 chapter, if a child is a delinquent child under IC 31-37-2, the juvenile
 12 court may enter one (1) or more of the following dispositional decrees:
 13 (1) Order supervision of the child by the probation department.
 14 (2) Order the child to receive outpatient treatment:
 15 (A) at a social service agency or a psychological, a psychiatric,
 16 a medical, or an educational facility; or
 17 (B) from an individual practitioner.
 18 (3) Remove the child from the child's home and place the child in
 19 another home or shelter care facility. Placement under this
 20 subdivision includes authorization to control and discipline the
 21 child.
 22 (4) Award wardship to a:
 23 (A) person, other than the department; or
 24 (B) shelter care facility.
 25 (5) Partially or completely emancipate the child under section 27
 26 of this chapter.
 27 (6) Order:
 28 (A) the child; or
 29 (B) the child's parent, guardian, or custodian;
 30 to receive family services.
 31 (7) Order a person who is a party to refrain from direct or indirect
 32 contact with the child.
 33 (b) If the child is removed from the child's home and placed in a
 34 foster family home or another facility, the juvenile court shall:
 35 (A) approve a permanency plan for the child;
 36 (B) find whether or not reasonable efforts were made to prevent
 37 or eliminate the need for the removal;
 38 (C) designate responsibility for the placement and care of the
 39 child with the probation department; and
 40 (D) find whether it:
 41 (i) serves the best interests of the child to be removed; and
 42 (ii) would be contrary to the health and welfare of the child for

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- 1 the child to remain in the home.
- 2 (c) If a dispositional decree under this section:
- 3 (1) orders or approves removal of a child from the child's home or
- 4 awards wardship of the child to a:
- 5 (A) person other than the department; or
- 6 (B) shelter care facility; and
- 7 (2) is the first court order in the delinquent child proceeding that
- 8 authorizes or approves removal of the child from the child's
- 9 parent, guardian, or custodian;
- 10 the court shall include in the decree the appropriate findings and
- 11 conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).
- 12 **(d) If the juvenile court orders supervision of the child by the**
- 13 **probation department under subsection (a)(1), the child or the**
- 14 **child's parent, guardian, or custodian is responsible for any costs**
- 15 **resulting from the participation in a rehabilitative service or**
- 16 **educational class provided by the probation department. Any costs**
- 17 **collected for services provided by the probation department shall**
- 18 **be deposited in the county supplemental juvenile probation services**
- 19 **fund.**
- 20 SECTION 11. IC 31-37-19-5, AS AMENDED BY P.L.146-2008,
- 21 SECTION 650, IS AMENDED TO READ AS FOLLOWS
- 22 [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) This section applies if a child
- 23 is a delinquent child under IC 31-37-1.
- 24 (b) The juvenile court may, in addition to an order under section 6
- 25 of this chapter, enter at least one (1) of the following dispositional
- 26 decrees:
- 27 (1) Order supervision of the child by the probation department as
- 28 a condition of probation under this subdivision. The juvenile court
- 29 shall after a determination under IC 11-8-8-5 require a child who
- 30 is adjudicated a delinquent child for an act that would be an
- 31 offense described in IC 11-8-8-5 if committed by an adult to
- 32 register with the local law enforcement authority under IC 11-8-8.
- 33 (2) Order the child to receive outpatient treatment:
- 34 (A) at a social service agency or a psychological, a psychiatric,
- 35 a medical, or an educational facility; or
- 36 (B) from an individual practitioner.
- 37 (3) Order the child to surrender the child's driver's license to the
- 38 court for a specified period of time.
- 39 (4) Order the child to pay restitution if the victim provides
- 40 reasonable evidence of the victim's loss, which the child may
- 41 challenge at the dispositional hearing.
- 42 (5) Partially or completely emancipate the child under section 27

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- 1 of this chapter.
- 2 (6) Order the child to attend an alcohol and drug services program
- 3 established under IC 12-23-14.
- 4 (7) Order the child to perform community restitution or service
- 5 for a specified period of time.
- 6 (8) Order wardship of the child as provided in section 9 of this
- 7 chapter.

8 **(c) If the juvenile court orders supervision of the child by the**
 9 **probation department under subsection (b)(1), the child or the**
 10 **child's parent, guardian, or custodian is responsible for any costs**
 11 **resulting from the participation in a rehabilitative service or**
 12 **educational class provided by the probation department. Any costs**
 13 **collected for services or classes provided by the probation**
 14 **department shall be deposited in the county supplemental juvenile**
 15 **probation services fund.**

16 SECTION 12. IC 33-24-6-3, AS AMENDED BY P.L.1-2010,
 17 SECTION 132, IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The division of state
 19 court administration shall do the following:

- 20 (1) Examine the administrative and business methods and systems
- 21 employed in the offices of the clerks of court and other offices
- 22 related to and serving the courts and make recommendations for
- 23 necessary improvement.
- 24 (2) Collect and compile statistical data and other information on
- 25 the judicial work of the courts in Indiana. All justices of the
- 26 supreme court, judges of the court of appeals, judges of all trial
- 27 courts, and any city or town courts, whether having general or
- 28 special jurisdiction, court clerks, court reporters, and other
- 29 officers and employees of the courts shall, upon notice by the
- 30 executive director and in compliance with procedures prescribed
- 31 by the executive director, furnish the executive director the
- 32 information as is requested concerning the nature and volume of
- 33 judicial business. The information must include the following:
- 34 (A) The volume, condition, and type of business conducted by
- 35 the courts.
- 36 (B) The methods of procedure in the courts.
- 37 (C) The work accomplished by the courts.
- 38 (D) The receipt and expenditure of public money by and for
- 39 the operation of the courts.
- 40 (E) The methods of disposition or termination of cases.
- 41 **(F) Each year after 2013, the number of offenders**
- 42 **convicted of Class D felonies in each county in the previous**

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- calendar year.**
 - (3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision ~~(2)~~ **(2)(A) through (2)(E). Information collected under subdivision (2)(F) shall be submitted to the department of correction on or before May 1 of each year.**
 - (4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.
 - (5) Administer the civil legal aid fund as required by IC 33-24-12.
 - (6) Administer the judicial technology and automation project fund established by section 12 of this chapter.
 - (7) Develop a standard protocol for the exchange of information, by not later than December 31, 2009:
 - (A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;
 - (B) at the option of the county prosecuting attorney, for:
 - (i) a prosecuting attorney's case management system;
 - (ii) a county court case management system; and
 - (iii) a county court case management system developed and operated by the division of state court administration;
 to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and
 - (C) between county court case management systems and the case management system developed and operated by the division of state court administration.
 - (8) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.
 - (b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.
 - (c) The division may adopt rules to implement this section.
- SECTION 13. IC 35-38-1-7.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2012]: **Sec. 7.8. (a) At the time of sentencing, a court shall determine whether a person is a credit restricted felon (as defined in IC 35-41-1-5.5).**
- (b) A determination under subsection (a) must be based upon:**

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- 1 (1) evidence admitted at trial that is relevant to the credit
- 2 restricted status;
- 3 (2) evidence introduced at the sentencing hearing; or
- 4 (3) a factual basis provided as part of a guilty plea.
- 5 (c) Upon determining that a defendant is a credit restricted
- 6 felon, a court shall advise the defendant of the consequences of this
- 7 determination.

8 SECTION 14. IC 35-38-1-31 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2012]: **Sec. 31. (a) If a court imposes on a**
 11 **person convicted of a felony a sentence that involves a commitment**
 12 **to the department of correction, the court shall complete an**
 13 **abstract of judgment in an electronic format approved by the**
 14 **department of correction and the division of state court**
 15 **administration. The abstract of judgment must include, but not be**
 16 **limited to:**

- 17 (1) each offense the person is convicted of;
- 18 (2) the sentence, including whether the sentence includes a
- 19 suspended sentence, probation, or direct commitment to
- 20 community corrections; and
- 21 (3) whether the person is a credit restricted felon.
- 22 (b) If a person convicted of a felony is committed to the
- 23 department of correction by a court as a result of a violation of the
- 24 terms of probation or other community placement, the court shall
- 25 state in the abstract of judgment the specific reasons for revocation
- 26 if probation, parole, or a community corrections placement has
- 27 been revoked.

28 SECTION 15. IC 35-38-2-2.3, AS AMENDED BY P.L.111-2009,
 29 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2012]: **Sec. 2.3. (a) As a condition of probation, the court may**
 31 **require a person to do a combination of the following:**

- 32 (1) Work faithfully at suitable employment or faithfully pursue a
- 33 course of study or career and technical education that will equip
- 34 the person for suitable employment.
- 35 (2) Undergo available medical or psychiatric treatment and
- 36 remain in a specified institution if required for that purpose.
- 37 (3) Attend or reside in a facility established for the instruction,
- 38 recreation, or residence of persons on probation.
- 39 (4) **Participate in a treatment program, educational class, or**
- 40 **rehabilitative service provided by a probation department or**
- 41 **by referral to an agency.**
- 42 (4) ~~(5)~~ **(5) Support the person's dependents and meet other family**

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

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

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1 time or intervals (consecutive or intermittent) within the period of
2 probation the court determines.

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

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

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

19 (f) When a court imposes a condition of probation described in
20 subsection ~~(a)(17)~~: **(a)(18)**:

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

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

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

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

32 **(h) If a court imposes a condition of probation described in**
33 **subsection (a)(4), the person on probation is responsible for any**
34 **costs resulting from the participation in a program, class, or**
35 **service. Any costs collected for services provided by the probation**
36 **department shall be deposited in the county or local supplemental**
37 **adult services fund.**

38 SECTION 16. IC 35-38-2-3, AS AMENDED BY P.L.106-2010,
39 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2012]: Sec. 3. (a) The court may revoke a person's probation
41 if:

- 42 (1) the person has violated a condition of probation during the

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1 probationary period; and

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

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

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

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

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

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

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

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

20 (e) **A person may admit to a violation of probation and waive**
21 **the right to a probation violation hearing after being offered the**
22 **opportunity to consult with an attorney. If the person admits to a**
23 **violation and requests to waive the probation violation hearing, the**
24 **probation officer shall advise the person that by waiving the right**
25 **to a probation violation hearing the person forfeits the rights**
26 **provided in subsection (f). The sanction administered must follow**
27 **the schedule of progressive probation violation sanctions adopted**
28 **by the judicial conference of Indiana under IC 11-13-1-8.**

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

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

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

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

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1 (2) Extend the person's probationary period for not more than one
 2 (1) year beyond the original probationary period.
 3 (3) Order execution of all or part of the sentence that was
 4 suspended at the time of initial sentencing.
 5 ~~(h)~~ (i) If the court finds that the person has violated a condition of
 6 home detention at any time before termination of the period, and the
 7 petition to revoke probation is filed within the probationary period, the
 8 court shall:
 9 (1) order one (1) or more sanctions as set forth in subsection ~~(g)~~;
 10 ~~(h)~~; and
 11 (2) provide credit for time served as set forth under
 12 IC 35-38-2.5-5.
 13 ~~(i)~~ (j) If the court finds that the person has violated a condition
 14 during any time before the termination of the period, and the petition
 15 is filed under subsection (a) after the probationary period has expired,
 16 the court may:
 17 (1) reinstate the person's probationary period, with or without
 18 enlarging the conditions, if the sum of the length of the original
 19 probationary period and the reinstated probationary period does
 20 not exceed the length of the maximum sentence allowable for the
 21 offense that is the basis of the probation; or
 22 (2) order execution of all or part of the sentence that was
 23 suspended at the time of the initial sentencing.
 24 ~~(j)~~ (k) If the court finds that the person has violated a condition of
 25 home detention during any time before termination of the period, and
 26 the petition is filed under subsection (a) after the probation period has
 27 expired, the court shall:
 28 (1) order a sanction as set forth in subsection ~~(i)~~; ~~(j)~~; and
 29 (2) provide credit for time served as set forth under
 30 IC 35-38-2.5-5.
 31 ~~(k)~~ (l) A judgment revoking probation is a final appealable order.
 32 ~~(l)~~ (m) Failure to pay fines or costs (including fees) required as a
 33 condition of probation may not be the sole basis for commitment to the
 34 department of correction.
 35 ~~(m)~~ (n) Failure to pay fees or costs assessed against a person under
 36 IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for
 37 revocation of probation.
 38 SECTION 17. IC 35-50-6-3.3, AS AMENDED BY P.L.228-2011,
 39 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2012]: Sec. 3.3. (a) In addition to any credit time a person
 41 earns under subsection (b) or section 3 of this chapter, a person earns
 42 credit time if the person:

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- 1 (1) is in credit Class I;
 2 (2) has demonstrated a pattern consistent with rehabilitation; and
 3 (3) successfully completes requirements to obtain one (1) of the
 4 following:
- 5 (A) A general educational development (GED) diploma under
 6 IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person
 7 has not previously obtained a high school diploma.
 8 (B) Except as provided in subsection (n), a high school
 9 diploma, if the person has not previously obtained a general
 10 educational development (GED) diploma.
 11 (C) An associate's degree from an approved postsecondary
 12 educational institution (as defined under IC 21-7-13-6(a)).
 13 (D) A bachelor's degree from an approved postsecondary
 14 educational institution (as defined under IC 21-7-13-6(a)).
- 15 (b) In addition to any credit time that a person earns under
 16 subsection (a) or section 3 of this chapter, a person may earn credit
 17 time if, while confined by the department of correction, the person:
- 18 (1) is in credit Class I;
 19 (2) demonstrates a pattern consistent with rehabilitation; and
 20 (3) successfully completes requirements to obtain at least one (1)
 21 of the following:
- 22 (A) A certificate of completion of a career and technical
 23 education program approved by the department of correction.
 24 (B) A certificate of completion of a substance abuse program
 25 approved by the department of correction.
 26 (C) A certificate of completion of a literacy and basic life
 27 skills program approved by the department of correction.
 28 (D) A certificate of completion of a reformatory program
 29 approved by the department of correction.
- 30 (c) The department of correction shall establish admissions criteria
 31 and other requirements for programs available for earning credit time
 32 under subsection (b). A person may not earn credit time under both
 33 subsections (a) and (b) for the same program of study.
- 34 (d) The amount of credit time a person may earn under this section
 35 is the following:
- 36 (1) Six (6) months for completion of a state of Indiana general
 37 educational development (GED) diploma under IC 20-20-6
 38 (before its repeal) or IC 22-4.1-18.
 39 (2) One (1) year for graduation from high school.
 40 (3) One (1) year for completion of an associate's degree.
 41 (4) Two (2) years for completion of a bachelor's degree.
 42 (5) Not more than a total of six (6) months of credit, as

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1 determined by the department of correction, for the completion of
 2 one (1) or more career and technical education programs
 3 approved by the department of correction.
 4 (6) Not more than a total of six (6) months of credit, as
 5 determined by the department of correction, for the completion of
 6 one (1) or more substance abuse programs approved by the
 7 department of correction.
 8 (7) Not more than a total of six (6) months credit, as determined
 9 by the department of correction, for the completion of one (1) or
 10 more literacy and basic life skills programs approved by the
 11 department of correction.
 12 (8) Not more than a total of six (6) months credit time, as
 13 determined by the department of correction, for completion of one
 14 (1) or more reformative programs approved by the department of
 15 correction. However, a person who is serving a sentence for an
 16 offense listed under IC 11-8-8-4.5 may not earn credit time under
 17 this subdivision.

18 However, a person who does not have a substance abuse problem that
 19 qualifies the person to earn credit in a substance abuse program may
 20 earn not more than a total of twelve (12) months of credit, as
 21 determined by the department of correction, for the completion of one
 22 (1) or more career and technical education programs approved by the
 23 department of correction. If a person earns more than six (6) months of
 24 credit for the completion of one (1) or more career and technical
 25 education programs, the person is ineligible to earn credit for the
 26 completion of one (1) or more substance abuse programs.

27 (e) Credit time earned by a person under this section is subtracted
 28 from the release date that would otherwise apply to the person after
 29 subtracting all other credit time earned by the person.

30 (f) A person does not earn credit time under subsection (a) unless
 31 the person completes at least a portion of the degree requirements after
 32 June 30, 1993.

33 (g) A person does not earn credit time under subsection (b) unless
 34 the person completes at least a portion of the program requirements
 35 after June 30, 1999.

36 (h) Credit time earned by a person under subsection (a) for a
 37 diploma or degree completed before July 1, 1999, shall be subtracted
 38 from:

39 (1) the release date that would otherwise apply to the person after
 40 subtracting all other credit time earned by the person, if the
 41 person has not been convicted of an offense described in
 42 subdivision (2); or

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1 (2) the period of imprisonment imposed on the person by the
 2 sentencing court, if the person has been convicted of one (1) of
 3 the following crimes:

4 (A) Rape (IC 35-42-4-1).

5 (B) Criminal deviate conduct (IC 35-42-4-2).

6 (C) Child molesting (IC 35-42-4-3).

7 (D) Child exploitation (IC 35-42-4-4(b)).

8 (E) Vicarious sexual gratification (IC 35-42-4-5).

9 (F) Child solicitation (IC 35-42-4-6).

10 (G) Child seduction (IC 35-42-4-7).

11 (H) Sexual misconduct with a minor as a Class A felony, Class
 12 B felony, or Class C felony (IC 35-42-4-9).

13 (I) Incest (IC 35-46-1-3).

14 (J) Sexual battery (IC 35-42-4-8).

15 (K) Kidnapping (IC 35-42-3-2), if the victim is less than
 16 eighteen (18) years of age.

17 (L) Criminal confinement (IC 35-42-3-3), if the victim is less
 18 than eighteen (18) years of age.

19 (M) An attempt or a conspiracy to commit a crime listed in
 20 clauses (A) through (L).

21 (i) The maximum amount of credit time a person may earn under
 22 this section is the lesser of:

23 (1) four (4) years; or

24 (2) one-third (1/3) of the person's total applicable credit time.

25 (j) ~~The amount of~~ Credit time earned under this section **is by an**
 26 **offender serving a sentence for a felony against a person under**
 27 **IC 35-42 or for a crime listed in IC 11-8-8-5 shall be** reduced to the
 28 extent that application of the credit time would otherwise result in:

29 (1) postconviction release (as defined in IC 35-40-4-6); or

30 (2) assignment of the person to a community transition program;
 31 in less than forty-five (45) days after the person earns the credit time.

32 (k) A person may earn credit time for multiple degrees at the same
 33 education level under subsection (d) only in accordance with guidelines
 34 approved by the department of correction. The department of
 35 correction may approve guidelines for proper sequence of education
 36 degrees under subsection (d).

37 (l) A person may not earn credit time:

38 (1) for a general educational development (GED) diploma if the
 39 person has previously earned a high school diploma; or

40 (2) for a high school diploma if the person has previously earned
 41 a general educational development (GED) diploma.

42 (m) A person may not earn credit time under this section if the

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person:
(1) commits an offense listed in IC 11-8-8-4.5 while the person is required to register as a sex or violent offender under IC 11-8-8-7; and
(2) is committed to the department of correction after being convicted of the offense listed in IC 11-8-8-4.5.

(n) For a person to earn credit time under subsection (a)(3)(B) for successfully completing the requirements for a high school diploma through correspondence courses, each correspondence course must be approved by the department before the person begins the correspondence course. The department may approve a correspondence course only if the entity administering the course is recognized and accredited by the department of education in the state where the entity is located.

SECTION 18. IC 36-2-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 21. County Offender Fund

Sec. 1. Each county shall establish, by resolution, a county offender fund to redistribute incentives received under IC 11-10-16 to:

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

Sec. 2. Money in a county offender fund established under section 1 of this chapter may be spent only under an appropriation from the county fiscal body.

SECTION 19. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1011, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 11-8-1-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 3.1. "Average daily marginal cost of incarcerating an offender" means the average daily cost to the department to commit one (1) additional offender to the department, as determined under IC 11-10-13-1(b)."**

Page 3, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 3. IC 11-10-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 1. (a)** The department shall develop a methodology for determining the average daily cost of incarcerating an offender.

(b) The department shall develop a methodology for determining the average daily marginal cost of incarcerating an offender. The costs to be considered in determining the average daily marginal cost of incarcerating an offender:

(1) must include the additional expenses of providing food, clothing, and health care to a new offender; and

(2) do not include the costs of new facilities or additional staff.

SECTION 4. IC 11-10-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 16. County Incentives and Disincentives for Class D Felony Offenders

Sec. 1. The department shall administer a local rehabilitation incentive and disincentive program under which counties may:

(1) reduce the number of Class D felony offenders committed to the department; and

(2) maintain fewer Class D felony offender commitments to the department.

Sec. 2. (a) The department shall determine the average length of stay for a Class D felony offender who has an executed sentence of less than one (1) year in the department for calendar year 2011.

(b) The average length of stay determined under subsection (a) must be expressed in days and must express the average number of days an offender described in subsection (a) is incarcerated with

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the department in a one (1) year period.

Sec. 3. (a) Before September 1, 2013, the department shall establish a baseline average number of Class D felony offenders committed annually to the department by each county based on each county's Class D felony commitments to the department in the 2008, 2009, 2010, and 2011 calendar years.

(b) Each year after 2013, the department shall provide a local rehabilitation incentive to each county that commits to the department in one (1) calendar year fewer Class D felony offenders than the baseline average established for that county under subsection (a). Each county that has a reduction in Class D felony commitments for a calendar year is entitled to an incentive based on the reduction in the department's incarceration costs attributable to the county's reduction in Class D felony commitments, as determined according to the formula set forth in subsection (c).

(c) Before March 1 of each year, the department shall calculate the incentive described in subsection (b) for each county using the following formula:

STEP ONE: Subtract the number of Class D felony offenders committed to the department by the county in the previous calendar year from the baseline average established for the county under subsection (a).

STEP TWO: If the STEP ONE remainder is not positive, the incentive amount for the county is zero (0). If the STEP ONE remainder is positive, multiply the number determined under STEP ONE by the average length of stay for a Class D felony offender in the department, as determined under section 2 of this chapter.

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

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

Sec. 4. (a) Each year after 2013, the department shall impose a disincentive to each county that in one (1) calendar year commits to the department:

(1) more than ten (10) more Class D felony offenders than the baseline average established for the county under section 3(a) of this chapter; or

(2) more offenders than one hundred five percent (105%) of the baseline average established for the county under section

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3(a) of this chapter;
whichever is greater.

(b) Before March 1 of each year, the department shall calculate the disincentive described in subsection (a) for each county using the following formula:

STEP ONE: Subtract the baseline average established for the county under section 3(a) of this chapter from the number of Class D felony offenders committed to the department by the county in the previous calendar year.

STEP TWO: If the STEP ONE remainder is ten (10) or less or less than one hundred five percent (105%) of the baseline average established for the county under section 3(a) of this chapter, the disincentive amount is zero (0). Otherwise, multiply the number determined under STEP ONE by the average length of stay for a Class D felony offender in the department, as determined under section 2 of this chapter.

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

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

Sec. 5. The department shall withhold the amount of the disincentive calculated for a county for a particular year under section 4 of this chapter from the amount of money the department is otherwise required to deposit in a county's misdemeanor fund under IC 11-12-6-13 before September 1 of that year.

Sec. 6. (a) Before September 1, 2014, the department, using the information collected under IC 33-24-6-3(a)(2)(F) in the report published by the division of state court administration under IC 33-24-6-3(a)(3) for calendar year 2013 and the number of Class D felony offender commitments made to the department in calendar year 2013, shall determine a baseline average percentage for purposes of this section. The baseline average percentage is the result determined in the last STEP of the following formula:

STEP ONE: For each county, determine:

- (A) the number of offenders convicted of Class D felonies in the county in calendar year 2011; and
- (B) of that number, the percentage of Class D felony offenders who were committed to the department.

STEP TWO: Determine the quotient of:

- (A) the sum of the amounts determined under STEP ONE; divided by

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(B) the number of counties in Indiana.

(b) Each year after 2013, the department shall provide a local corrections incentive to each county that does not commit a larger percentage of its Class D felony offenders to the department than the baseline average percentage determined under subsection (a), as determined under subsection (c).

(c) Before March 1 of each year, the department shall determine a county's eligibility for the incentive described in subsection (b) using the following formula:

STEP ONE: Determine for a county the number of Class D felony offenders committed to the department by the county in the previous calendar year.

STEP TWO: Determine the percentage of Class D felony offenders committed to the department by the county in the previous calendar year by dividing:

(A) the STEP ONE number; by

(B) the total number of Class D felony convictions in that county in the previous calendar year, as determined using the information collected under IC 33-24-6-3(a)(2)(F) in the report published by the division of state court administration under IC 33-24-6-3(a)(3).

STEP THREE: If the county's percentage of Class D felony offenders committed to the department, as calculated under STEP TWO, is lower than the baseline average percentage determined under subsection (a), the county is eligible for an incentive described in subsection (d).

(d) The incentive under this section shall be paid from funds remaining from the marginal savings realized by the department as a result of the counties committing fewer Class D felony offenders to the department after the incentives calculated under section 3 of this chapter have been distributed. The department may adopt rules under IC 4-22-2 to distribute the remaining funds to eligible counties equitably, with the amount of each county's incentive being proportional to the extent to which savings realized by the department are attributable to the county's reduction in the percentage of the county's Class D felony offenders who are committed to the department.

Sec. 7. (a) Before June 1 of each year, the local incentives calculated under sections 3 and 6 of this chapter shall be provided from the marginal savings realized by the department as a result of the counties committing fewer Class D felony offenders to the department and shall be distributed to a county's county offender

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fund under IC 36-2-21. The county fiscal body shall redistribute the incentives as set forth in IC 36-2-21-1.

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

Sec. 8. The department shall annually transfer to the probation improvement fund, established under IC 11-13-2.5, twenty-five percent (25%) of the statewide marginal savings realized by the department as a result of the counties committing fewer Class D felony offenders to the department.

Sec. 9. In making the calculations required under this chapter, the department may not consider a Class D felony offender:

- (1) whose probation has been revoked after the offender was previously incarcerated for the felony by the department in a department facility;
- (2) whose participation in a community corrections program has been terminated as a result of a violation of program requirements;
- (3) whose participation in a problem solving court program has been terminated as a result of a violation of program requirements; or
- (4) who is committed temporarily to the department under IC 35-33-11-1.

Sec. 10. This chapter does not affect the rate that the department pays to house an offender in a jail under IC 35-33-11.

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

Page 5, line 19, delete "Amounts deposited under IC 33-37-7-2(o)." and insert "Appropriations from the general assembly."

Page 5, line 20, delete "IC 33-37-7-8(j)." and insert "IC 11-10-16-8."

Page 12, delete lines 7 through 42, begin a new paragraph and insert:

"SECTION 9. IC 16-41-6-1, AS AMENDED BY P.L.94-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Except as provided in IC 16-41-8-6, IC 16-41-10-2.5, and subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to HIV without the oral or written consent of the individual to be tested or a representative as authorized under IC 16-36-1. A physician ordering the test or the physician's authorized representative shall document



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whether or not the individual has consented. The test for the antibody or antigen to HIV may not be performed on a woman under section 5 or 6 of this chapter if the woman refuses under section 7 of this chapter to consent to the test.

(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:

- (1) If ordered by a physician who has obtained a health care consent under IC 16-36-1 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.
- (2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subsection shall be held in camera at the request of the individual.
- (3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).
- (4) The test is ordered under section 4 of this chapter.
- (5) The test is required or authorized under IC 11-10-3-2.5.

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or ~~IC 35-38-2-2.3(a)(16)~~; **IC 35-38-2-2.3(a)(17)**.

SECTION 10. IC 31-37-19-1, AS AMENDED BY P.L.146-2008, SECTION 647, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Subject to section 6.5 of this chapter, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the probation department.
- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
 - (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
- (4) Award wardship to a:
 - (A) person, other than the department; or
 - (B) shelter care facility.
- (5) Partially or completely emancipate the child under section 27 of this chapter.
- (6) Order:
 - (A) the child; or



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(B) the child's parent, guardian, or custodian;
to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

(b) If the child is removed from the child's home and placed in a foster family home or another facility, the juvenile court shall:

(A) approve a permanency plan for the child;

(B) find whether or not reasonable efforts were made to prevent or eliminate the need for the removal;

(C) designate responsibility for the placement and care of the child with the probation department; and

(D) find whether it:

(i) serves the best interests of the child to be removed; and

(ii) would be contrary to the health and welfare of the child for the child to remain in the home.

(c) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home or awards wardship of the child to a:

(A) person other than the department; or

(B) shelter care facility; and

(2) is the first court order in the delinquent child proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;

the court shall include in the decree the appropriate findings and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).

(d) If the juvenile court orders supervision of the child by the probation department under subsection (a)(1), the child or the child's parent, guardian, or custodian is responsible for any costs resulting from the participation in a rehabilitative service or educational class provided by the probation department. Any costs collected for services provided by the probation department shall be deposited in the county supplemental juvenile probation services fund.

SECTION 11. IC 31-37-19-5, AS AMENDED BY P.L.146-2008, SECTION 650, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by the probation department as a condition of probation under this subdivision. The juvenile court

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shall after a determination under IC 11-8-8-5 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 11-8-8-5 if committed by an adult to register with the local law enforcement authority under IC 11-8-8.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

(c) If the juvenile court orders supervision of the child by the probation department under subsection (b)(1), the child or the child's parent, guardian, or custodian is responsible for any costs resulting from the participation in a rehabilitative service or educational class provided by the probation department. Any costs collected for services or classes provided by the probation department shall be deposited in the county supplemental juvenile probation services fund.

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

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other

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officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

- (A) The volume, condition, and type of business conducted by the courts.
 - (B) The methods of procedure in the courts.
 - (C) The work accomplished by the courts.
 - (D) The receipt and expenditure of public money by and for the operation of the courts.
 - (E) The methods of disposition or termination of cases.
 - (F) Each year after 2013, the number of offenders convicted of Class D felonies in each county in the previous calendar year.**
- (3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision ~~(2)~~ **(2)(A) through (2)(E). Information collected under subdivision (2)(F) shall be submitted to the department of correction on or before May 1 of each year.**
- (4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.
- (5) Administer the civil legal aid fund as required by IC 33-24-12.
- (6) Administer the judicial technology and automation project fund established by section 12 of this chapter.
- (7) Develop a standard protocol for the exchange of information, by not later than December 31, 2009:
- (A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;
 - (B) at the option of the county prosecuting attorney, for:
 - (i) a prosecuting attorney's case management system;
 - (ii) a county court case management system; and
 - (iii) a county court case management system developed and operated by the division of state court administration;
 to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and
 - (C) between county court case management systems and the case management system developed and operated by the division of state court administration.
- (8) Establish and administer an electronic system for receiving

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information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.

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

(c) The division may adopt rules to implement this section."

Delete pages 13 through 20.

Page 21, delete lines 1 through 37.

Page 22, line 2, delete "introduced" and insert "**admitted**".

Page 22, line 2, delete "trial; or" and insert "**trial that is relevant to the credit restricted status;**

(2) evidence introduced at the sentencing hearing; or".

Page 22, line 3, delete "(2)" and insert "(3)".

Page 22, delete lines 7 through 12.

Page 22, line 17, delete "state in the" and insert "**complete an abstract of judgment in an electronic format approved by the department of correction and the division of state court administration. The abstract of judgment must include, but not be limited to:"**.

Page 22, delete line 18.

Page 22, line 19, delete "and".

Page 22, line 22, delete "corrections." and insert "**corrections; and**

(3) whether the person is a credit restricted felon."

Page 22, line 23, delete "a court imposes on".

Page 22, line 23, delete "felony a" and insert "**felony**".

Page 22, line 24, delete "sentence that involves a commitment" and insert "**is committed**".

Page 22, line 25, delete "correction," and insert "**correction by a court as a result of a violation of the terms of probation or other community placement,**".

Page 22, line 25, delete "sentencing order the" and insert "**abstract of judgment the specific**".

Page 22, between lines 27 and 28, begin a new paragraph and insert: "SECTION 15. IC 35-38-2-2.3, AS AMENDED BY P.L. 111-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

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

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- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
- (4) Participate in a treatment program, educational class, or rehabilitative service provided by a probation department or by referral to an agency.**
- ~~(4)~~ (5) Support the person's dependents and meet other family responsibilities.
- ~~(5)~~ (6) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.
- ~~(6)~~ (7) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
- ~~(7)~~ (8) Pay a fine authorized by IC 35-50.
- ~~(8)~~ (9) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.
- ~~(9)~~ (10) Report to a probation officer at reasonable times as directed by the court or the probation officer.
- ~~(10)~~ (11) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
- ~~(11)~~ (12) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
- ~~(12)~~ (13) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
- ~~(13)~~ (14) Perform uncompensated work that benefits the community.
- ~~(14)~~ (15) Satisfy other conditions reasonably related to the person's rehabilitation.
- ~~(15)~~ (16) Undergo home detention under IC 35-38-2.5.
- ~~(16)~~ (17) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:
- (A) the person had been convicted of an offense relating to a

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criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

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

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

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

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

~~(17)~~ **(18)** Refrain from any direct or indirect contact with an individual and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.

~~(18)~~ **(19)** Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

~~(19)~~ **(20)** Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

~~(20)~~ **(21)** If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

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

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

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

~~(21)~~ **(22)** Refrain from owning, harboring, or training an animal.

~~(22)~~ **(23)** Participate in a reentry court program.

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

(1) the conditions of probation; and

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

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

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

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

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

(1) the term of imprisonment;

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

(3) the conditions.

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

(f) When a court imposes a condition of probation described in subsection ~~(a)(17)~~: **(a)(18)**:

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

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

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

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

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

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

to provide a DNA sample as a condition of probation.

(h) If a court imposes a condition of probation described in subsection (a)(4), the person on probation is responsible for any costs resulting from the participation in a program, class, or

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service. Any costs collected for services provided by the probation department shall be deposited in the county or local supplemental adult services fund."

Page 28, after line 4, begin a new paragraph and insert:

"SECTION 18. IC 36-2-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 21. County Offender Fund

Sec. 1. Each county shall establish, by resolution, a county offender fund to redistribute incentives received under IC 11-10-16 to:

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

Sec. 2. Money in a county offender fund established under section 1 of this chapter may be spent only under an appropriation from the county fiscal body.

SECTION 19. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1011 as introduced.)

STEUERWALD, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1011, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

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

Page 5, line 29, after "year." insert "**The amount withheld under**

EH 1011—LS 6230/DI 107+



this section shall be deposited in the probation improvement fund established under IC 11-13-2.5."

Page 7, delete lines 10 through 14.

Page 7, line 15, delete "9." and insert "8."

Page 7, line 28, delete "10." and insert "9."

Page 7, line 30, delete "11." and insert "10."

Page 9, delete line 40.

Page 12, delete lines 1 through 2.

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1011 as printed January 28, 2012.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 3.

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