



February 17, 2012

**ENGROSSED
SENATE BILL No. 262**

DIGEST OF SB 262 (Updated February 15, 2012 3:06 pm - DI 69)

Citations Affected: Numerous provisions throughout the Indiana Code.

Synopsis: IC 4 and IC 5 revision. Reorganizes certain crimes relating to state and local administration by: (1) relocating and renumbering crimes currently codified as offenses against public administration (IC 35-44) into a new article and repealing IC 35-44; and (2) relocating certain other crimes codified in IC 4 and IC 5 into the criminal code. Repeals redundant provisions. Repeals a provision adopted in 1855 prohibiting certain governmental officers from recklessly lending more money than they are authorized to lend. Makes technical corrections.

Effective: July 1, 2012.

Bray, Buck, Steele, Taylor

(HOUSE SPONSORS — STEUERWALD, LAWSON L)

January 4, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 19, 2012, reported favorably — Do Pass.

January 23, 2012, read second time, ordered engrossed.

January 24, 2012, engrossed; returned to second reading.

January 26, 2012, re-read second time, amended, ordered engrossed.

January 27, 2012, engrossed.

January 31, 2012, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 9, 2012, read first time and referred to Committee on Courts and Criminal Code.

February 16, 2012, amended, reported — Do Pass.

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February 17, 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.

ENGROSSED SENATE BILL No. 262

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

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

1 SECTION 1. IC 4-2-6-4, AS AMENDED BY P.L.89-2006,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 4. (a) The commission may do any of the
4 following:

5 (1) Upon a vote of four (4) members, refer any matter within the
6 inspector general's authority to the inspector general for
7 investigation.

8 (2) Receive and hear any complaint filed with the commission by
9 the inspector general that alleges a violation of:

10 (A) this chapter;

11 (B) a rule adopted under this chapter;

12 (C) IC 4-2-7;

13 (D) a rule adopted under IC 4-2-7;

14 (E) IC 4-2-8; or

15 (F) a rule adopted under IC 4-2-8.

16 (3) Obtain information and, upon a vote of four (4) members,
17 compel the attendance and testimony of witnesses and the

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- 1 production of pertinent books and papers by a subpoena
 2 enforceable by the circuit or superior court of the county where
 3 the subpoena is to be issued.
- 4 (4) Recommend legislation to the general assembly relating to the
 5 conduct and ethics of state officers, employees, special state
 6 appointees, and persons who have business relationships with
 7 agencies.
- 8 (5) Adopt rules under IC 4-22-2 to implement this chapter.
- 9 (6) Accept and file information:
 10 (A) voluntarily supplied; and
 11 (B) that exceeds the requirements of this chapter.
- 12 (7) Conduct research.
- 13 (b) The commission shall do the following:
- 14 (1) Act as an advisory body by issuing advisory opinions to
 15 interpret this chapter, IC 4-2-7, or the rules adopted under this
 16 chapter or IC 4-2-7, upon:
 17 (A) request of:
 18 (i) a state officer or a former state officer;
 19 (ii) an employee or a former employee;
 20 (iii) a person who has or had a business relationship with an
 21 agency;
 22 (iv) a special state appointee or former special state
 23 appointee; or
 24 (v) the inspector general; or
 25 (B) motion of the commission.
- 26 (2) Conduct its proceedings in the following manner:
 27 (A) When a complaint is filed with the commission, the
 28 commission may:
 29 (i) reject, without further proceedings, a complaint that the
 30 commission considers frivolous or inconsequential;
 31 (ii) reject, without further proceedings, a complaint that the
 32 commission is satisfied has been dealt with appropriately by
 33 an agency;
 34 (iii) upon the vote of four (4) members, determine that the
 35 complaint does not allege facts sufficient to constitute a
 36 violation of this chapter or the code of ethics and dismiss the
 37 complaint; or
 38 (iv) forward a copy of the complaint to the attorney general,
 39 the prosecuting attorney of the county in which the alleged
 40 violation occurred, the state board of accounts, a state
 41 officer, the appointing authority, or other appropriate person
 42 for action, and stay the commission's proceedings pending

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the other action.

(B) If a complaint is not disposed of under clause (A), a copy of the complaint shall be sent to the person alleged to have committed the violation.

(C) If the complaint is not disposed of under clause (A), the commission may promptly refer the alleged violation for additional investigation by the inspector general. If the commission finds by a majority vote that probable cause exists to support an alleged violation, it shall set a public hearing on the matter. The respondent shall be notified within fifteen (15) days of the commission's determination. Except as provided in this section, the commission's evidence relating to an investigation is confidential.

(D) A complaint filed with the commission is open for public inspection after the commission finds that probable cause exists. However, a complaint filed by the inspector general that contains confidential information under IC 4-2-7-8 may be redacted to exclude the confidential information. Every hearing and other proceeding in which evidence is received by the commission is open to the public. Investigative reports by the inspector general that are not filed with the commission may be kept confidential.

(E) A:

- (i) complaint that is filed with; or
- (ii) proceeding that is held by;

the commission before the commission has found probable cause is confidential unless the target of the investigation elects to have information disclosed, or the commission elects to respond to public statements by the person who filed the complaint.

(F) The commission may acknowledge:

- (i) the existence and scope of an investigation before the finding of probable cause; or
- (ii) that the commission did not find probable cause to support an alleged violation.

(G) If a hearing is to be held, the respondent may examine and make copies of all evidence in the commission's possession relating to the charges. At the hearing, the charged party shall be afforded appropriate due process protection consistent with IC 4-21.5, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses.

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- 1 (H) After the hearing, the commission shall state its findings
 2 of fact. If the commission, based on a preponderance of the
 3 evidence, finds by a majority vote that the respondent has
 4 violated this chapter, IC 4-2-7, IC 4-2-8, or a rule adopted
 5 under this chapter, IC 4-2-7, or IC 4-2-8, it shall state its
 6 findings in writing in a report, which shall be supported and
 7 signed by a majority of the commission members and shall be
 8 made public.
- 9 (I) If the commission, based on a preponderance of the
 10 evidence, finds by a majority vote a violation of this chapter,
 11 IC 4-2-7, IC 4-2-8, or a rule adopted under this chapter,
 12 IC 4-2-7, or IC 4-2-8, the commission may also take any of the
 13 actions provided in section 12 of this chapter.
- 14 (J) The report required under clause (H) shall be presented to:
 15 (i) the respondent;
 16 (ii) the appointing authority or state officer of the employee,
 17 former employee, or special state appointee;
 18 (iii) the appointing authority or state officer of an agency or
 19 office that has a business relationship with the person
 20 sanctioned; and
 21 (iv) the governor.
- 22 (K) The commission may also forward the report to any of the
 23 following:
 24 (i) The prosecuting attorney of each county in which the
 25 violation occurred.
 26 (ii) The state board of accounts.
 27 (iii) The state personnel director.
 28 (iv) The attorney general.
 29 (v) A state officer.
 30 (vi) The appointing authority of the state employee or
 31 agency that has a business relationship with the person
 32 sanctioned.
 33 (vii) Any other appropriate person.
- 34 (L) If the commission finds the respondent has not violated a
 35 code or statutory provision or a rule adopted under this
 36 chapter, IC 4-2-7, or IC 4-2-8, it shall dismiss the charges.
- 37 (3) Review all conflict of interest disclosures received by the
 38 commission under ~~IC 35-44-1-3~~, **IC 35-44.1-1-4**, maintain an
 39 index of those disclosures, and issue advisory opinions and
 40 screening procedures as set forth in section 9 of this chapter.
- 41 (c) Notwithstanding IC 5-14-3-4(b)(8)(C), the records of the
 42 commission concerning the case of a respondent that are not

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1 confidential under IC 5-14-3-4(b)(2)(C) shall be available for
 2 inspection and copying in accordance with IC 5-14-3.

3 SECTION 2. IC 4-2-6-13, AS AMENDED BY P.L.89-2006,
 4 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2012]: Sec. 13. (a) Except as provided in subsection (b), a
 6 state officer, an employee, or a special state appointee shall not
 7 retaliate or threaten to retaliate against an employee, a former
 8 employee, a special state appointee, or a former special state appointee
 9 because the employee, former employee, special state appointee, or
 10 former special state appointee did any of the following:

11 (1) Filed a complaint with the commission or the inspector
 12 general.

13 (2) Provided information to the commission or the inspector
 14 general.

15 (3) Testified at a commission proceeding.

16 (b) A state officer, an employee, or a special state appointee may
 17 take appropriate action against an employee who took any of the
 18 actions listed in subsection (a) if the employee or special state
 19 appointee:

20 (1) did not act in good faith; or

21 (2) knowingly or recklessly provided false information or
 22 testimony to the commission.

23 (c) A person who violates this section is subject to action under
 24 section 12 of this chapter **and criminal prosecution under**
 25 **IC 35-44.2-1-2.**

26 (d) ~~A person who knowingly or intentionally violates this section~~
 27 ~~commits a Class A misdemeanor. In addition to any criminal penalty~~
 28 ~~imposed under IC 35-50-3, a person who commits a misdemeanor~~
 29 ~~under this section is subject to action under section 12 of this chapter.~~

30 SECTION 3. IC 4-2-6-14, AS AMENDED BY P.L.222-2005,
 31 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2012]: Sec. 14. (a) A person may not do any of the following:

33 (1) Knowingly or intentionally induce or attempt to induce, by
 34 threat, coercion, suggestion, or false statement, a witness or
 35 informant in a commission proceeding or investigation conducted
 36 by the inspector general to do any of the following:

37 (A) Withhold or unreasonably delay the production of any
 38 testimony, information, document, or thing.

39 (B) Avoid legal process summoning the person to testify or
 40 supply evidence.

41 (C) Fail to appear at a proceeding or investigation to which the
 42 person has been summoned.

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- 1 (D) Make, present, or use a false record, document, or thing
- 2 with the intent that the record, document, or thing appear in a
- 3 commission proceeding or investigation to mislead a
- 4 commissioner or commission employee.
- 5 (2) Alter, damage, or remove a record, document, or thing except
- 6 as permitted or required by law, with the intent to prevent the
- 7 record, document, or thing from being produced or used in a
- 8 commission proceeding or investigation conducted by the
- 9 inspector general.
- 10 (3) Make, present, or use a false record, document, or thing with
- 11 the intent that the record, document, or thing appear in a
- 12 commission proceeding or investigation to mislead a
- 13 commissioner or commission employee.
- 14 (b) A person who ~~knowingly or intentionally~~ violates subsection (a)
- 15 ~~commits a Class A misdemeanor. is subject to criminal prosecution~~
- 16 ~~under IC 35-44.2-1-3.~~
- 17 SECTION 4. IC 4-2-7-3, AS AMENDED BY P.L.1-2007,
- 18 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 2012]: Sec. 3. The inspector general shall do the following:
- 20 (1) Initiate, supervise, and coordinate investigations.
- 21 (2) Recommend policies and carry out other activities designed to
- 22 deter, detect, and eradicate fraud, waste, abuse, mismanagement,
- 23 and misconduct in state government.
- 24 (3) Receive complaints alleging the following:
- 25 (A) A violation of the code of ethics.
- 26 (B) Bribery (~~IC 35-44-1-1~~): **(IC 35-44.1-1-2).**
- 27 (C) Official misconduct (~~IC 35-44-1-2~~): **(IC 35-44.1-1-1).**
- 28 (D) Conflict of interest (~~IC 35-44-1-3~~): **(IC 35-44.1-1-4).**
- 29 (E) Profiteering from public service (~~IC 35-44-1-7~~):
- 30 **(IC 35-44.1-1-5).**
- 31 (F) A violation of the executive branch lobbying rules.
- 32 (G) A violation of a statute or rule relating to the purchase of
- 33 goods or services by a current or former employee, state
- 34 officer, special state appointee, lobbyist, or person who has a
- 35 business relationship with an agency.
- 36 (4) If the inspector general has reasonable cause to believe that a
- 37 crime has occurred or is occurring, report the suspected crime to:
- 38 (A) the governor; and
- 39 (B) appropriate state or federal law enforcement agencies and
- 40 prosecuting authorities having jurisdiction over the matter.
- 41 (5) Adopt rules under IC 4-22-2 to implement IC 4-2-6 and this
- 42 chapter.

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- 1 (6) Adopt rules under IC 4-22-2 and section 5 of this chapter to
 2 implement a code of ethics.
- 3 (7) Ensure that every:
 4 (A) employee;
 5 (B) state officer;
 6 (C) special state appointee; and
 7 (D) person who has a business relationship with an agency;
 8 is properly trained in the code of ethics.
- 9 (8) Provide advice to an agency on developing, implementing,
 10 and enforcing policies and procedures to prevent or reduce the
 11 risk of fraudulent or wrongful acts within the agency.
- 12 (9) Recommend legislation to the governor and general assembly
 13 to strengthen public integrity laws, including the code of ethics
 14 for state officers, employees, special state appointees, and persons
 15 who have a business relationship with an agency, including
 16 whether additional specific state officers, employees, or special
 17 state appointees should be required to file a financial disclosure
 18 statement under IC 4-2-6-8.
- 19 (10) Annually submit a report to the legislative council detailing
 20 the inspector general's activities. The report must be in an
 21 electronic format under IC 5-14-6.
- 22 (11) Prescribe and provide forms for statements required to be
 23 filed under IC 4-2-6 or this chapter.
- 24 (12) Accept and file information that:
 25 (A) is voluntarily supplied; and
 26 (B) exceeds the requirements of this chapter.
- 27 (13) Inspect financial disclosure forms.
- 28 (14) Notify persons who fail to file forms required under IC 4-2-6
 29 or this chapter.
- 30 (15) Develop a filing, a coding, and an indexing system required
 31 by IC 4-2-6 and ~~IC 35-44-1-3~~. **IC 35-44.1-1.**
- 32 (16) Prepare interpretive and educational materials and programs.
- 33 SECTION 5. IC 4-2-7-6, AS ADDED BY P.L.222-2005, SECTION
 34 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 35 2012]: Sec. 6. (a) This section applies if the inspector general finds
 36 evidence of misfeasance, malfeasance, nonfeasance, misappropriation,
 37 fraud, or other misconduct that has resulted in a financial loss to the
 38 state or in an unlawful benefit to an individual in the conduct of state
 39 business.
- 40 (b) If the inspector general finds evidence described in subsection
 41 (a), the inspector general shall certify a report of the matter to the
 42 attorney general and provide the attorney general with any relevant

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1 documents, transcripts, or written statements. Not later than one
 2 hundred eighty (180) days after receipt of the report from the inspector
 3 general, the attorney general shall do one (1) of the following:

4 (1) File a civil action (including an action upon a state officer's
 5 official bond) to secure for the state the recovery of funds
 6 misappropriated, diverted, missing, or unlawfully gained. Upon
 7 request of the attorney general, the inspector general shall assist
 8 the attorney general in the investigation, preparation, and
 9 prosecution of the civil action.

10 (2) Inform the inspector general that the attorney general does not
 11 intend to file a civil action for the recovery of funds
 12 misappropriated, diverted, missing, or unlawfully gained. If the
 13 attorney general elects not to file a civil action, the attorney
 14 general shall return to the inspector general all documents and
 15 files initially provided by the inspector general.

16 (3) Inform the inspector general that the attorney general is
 17 diligently investigating the matter and after further investigation
 18 may file a civil action for the recovery of funds misappropriated,
 19 diverted, missing, or unlawfully gained. However, if more than
 20 three hundred sixty-five (365) days have passed since the
 21 inspector general certified the report to the attorney general, the
 22 attorney general loses the authority to file a civil action for the
 23 recovery of funds misappropriated, diverted, missing, or
 24 unlawfully gained and shall return to the inspector general all
 25 documents and files initially provided by the inspector general.

26 (c) If the inspector general has found evidence described in
 27 subsection (a) and reported to the attorney general under subsection (b)
 28 and:

29 (1) the attorney general has elected under subsection (b)(2) not to
 30 file a civil action for the recovery of funds misappropriated,
 31 diverted, missing, or unlawfully gained; or

32 (2) under subsection (b)(3) more than three hundred sixty-five
 33 (365) days have passed since the inspector general certified the
 34 report to the attorney general under subsection (b) and the
 35 attorney general has not filed a civil action;

36 the inspector general may file a civil action for the recovery of funds
 37 misappropriated, diverted, missing, or unlawfully gained.

38 (d) If the inspector general has found evidence described in
 39 subsection (a), the inspector general may institute forfeiture
 40 proceedings under IC 34-24-2 in a court having jurisdiction in a county
 41 where property derived from or realized through the misappropriation,
 42 diversion, disappearance, or unlawful gain of state funds may be

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1 located, unless a prosecuting attorney has already instituted forfeiture
2 proceedings against that property.

3 **(e) The inspector general may directly institute civil proceedings**
4 **against a person who has failed to pay civil penalties imposed by**
5 **the ethics commission under IC 4-2-6-12.**

6 SECTION 6. IC 4-6-2-1.1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1.1. The attorney
8 general has concurrent jurisdiction with the prosecuting attorney in the
9 prosecution of the following:

10 (1) Actions in which a person is accused of committing, while a
11 member of an unlawful assembly as defined in IC 35-45-1-1, a
12 homicide (IC 35-42-1).

13 (2) Actions in which a person is accused of assisting a criminal
14 ~~(IC 35-44-3-2 (IC 35-44.1-2-5),~~ if the person alleged to have been
15 assisted is a person described in subdivision (1). ~~of this section.~~

16 (3) Actions in which a sheriff is accused of any offense that
17 involves a failure to protect the life of a prisoner in the sheriff's
18 custody.

19 SECTION 7. IC 4-6-3-2, AS AMENDED BY P.L.111-2009,
20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2012]: Sec. 2. (a) The attorney general shall have charge of
22 and direct the prosecution of all civil actions that are brought in the
23 name of the state of Indiana or any state agency.

24 (b) In no instance under this section shall the state or a state agency
25 be required to file a bond.

26 (c) This section does not affect the authority of prosecuting
27 attorneys to prosecute civil actions.

28 (d) This section does not affect the authority of the inspector general
29 to prosecute a civil action under IC 4-2-7-6 for the recovery of **any of**
30 **the following:**

31 (1) Funds misappropriated, diverted, missing, or unlawfully
32 gained.

33 (2) **A civil penalty imposed by the state ethics commission**
34 **under IC 4-2-6-12.**

35 (e) The attorney general may bring an action to collect unpaid
36 registration fees owed by a commercial dog broker or a commercial
37 dog breeder under IC 15-21.

38 SECTION 8. IC 4-11-1-6 IS REPEALED [EFFECTIVE JULY 1,
39 2012]. ~~Sec. 6. An officer who recklessly lends to any person a greater~~
40 ~~amount of funds than he is authorized by law to lend commits a Class~~
41 ~~B misdemeanor.~~

42 SECTION 9. IC 4-13-1.2-11 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. A person who
2 **interferes with the ombudsman is subject to criminal prosecution**
3 **under IC 35-44.2-1-4.**

4 (1) intentionally interferes with or prevents the completion of the
5 work of the ombudsman;

6 (2) knowingly offers compensation to the ombudsman in an effort
7 to affect the outcome of an investigation or a potential
8 investigation;

9 (3) knowingly or intentionally retaliates against an offender or
10 another person who provides information to the ombudsman; or

11 (4) makes threats because of an investigation or potential
12 investigation against the ombudsman; a person who has filed a
13 complaint; or a person who provides information to the
14 ombudsman;

15 commits a Class A misdemeanor.

16 SECTION 10. IC 4-13-4.1-4 IS REPEALED [EFFECTIVE JULY
17 1, 2012]. Sec. 4: (a) Neither the commissioner of the department of
18 administration nor any employee of his department may be financially
19 interested or have any personal beneficial interest in the purchase of
20 any printing, lithographing, paper, binding, stationery, printing
21 materials, or office supplies.

22 (b) If the commissioner of the department of administration or an
23 employee of his department knowingly, falsely certifies any bill on
24 account of the public printing, lithographing, binding, stationery,
25 printing material, or office supplies, he commits a Class D felony.

26 SECTION 11. IC 4-13-19-11, AS ADDED BY P.L.182-2009(ss),
27 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2012]: Sec. 11. (a) A person who **interferes with the**
29 **ombudsman is subject to criminal prosecution under**
30 **IC 35-44.2-1-5.**

31 (1) except as provided in subsection (b), intentionally interferes
32 with or prevents the completion of the work of an ombudsman;

33 (2) knowingly offers compensation to an ombudsman in an effort
34 to affect the outcome of an investigation or a potential
35 investigation;

36 (3) knowingly or intentionally retaliates against another person
37 who provides information to an ombudsman; or

38 (4) knowingly or intentionally threatens an ombudsman; a person
39 who has filed a complaint; or a person who provides information
40 to an ombudsman; because of an investigation or potential
41 investigation;

42 commits interference with the office of the department of child services

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1 ombudsman; a Class A misdemeanor.
 2 (b) Expungement of records held by the department of child services
 3 that occurs by statutory mandate, judicial order or decree,
 4 administrative review or process; automatic operation of the Indiana
 5 Child Welfare Information System (ICWIS) computer system; or in the
 6 normal course of business shall not be considered intentional
 7 interference or prevention for the purposes of subsection (a):

8 SECTION 12. IC 4-15-10-4, AS AMENDED BY P.L.222-2005,
 9 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2012]: Sec. 4. (a) Any employee may report in writing the
 11 existence of:

- 12 (1) a violation of a federal law or regulation;
- 13 (2) a violation of a state law or rule;
- 14 (3) a violation of an ordinance of a political subdivision (as
 15 defined in IC 36-1-2-13); or
- 16 (4) the misuse of public resources;

17 to a supervisor or to the inspector general.

18 (b) For having made a report under subsection (a), the employee
 19 making the report may not:

- 20 (1) be dismissed from employment;
- 21 (2) have salary increases or employment related benefits
 22 withheld;
- 23 (3) be transferred or reassigned;
- 24 (4) be denied a promotion the employee otherwise would have
 25 received; or
- 26 (5) be demoted.

27 (c) Notwithstanding subsections (a) and (b), an employee must
 28 make a reasonable attempt to ascertain the correctness of any
 29 information to be furnished and may be subject to disciplinary actions
 30 for knowingly furnishing false information, including suspension or
 31 dismissal, as determined by the employee's appointing authority, the
 32 appointing authority's designee, or the ethics commission. However,
 33 any state employee disciplined under this subsection is entitled to
 34 process an appeal of the disciplinary action under the procedure as set
 35 forth in ~~IC 4-15-2-34 through IC 4-15-2-35.5~~. **IC 4-15-2.2-42.**

36 (d) An employer who ~~knowingly or intentionally~~ violates this
 37 section ~~commits a Class A misdemeanor~~. **is subject to criminal**
 38 **prosecution under IC 35-44.2-1-1.**

39 SECTION 13. IC 4-21.5-3-16 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) A person who:

- 41 (1) cannot speak or understand the English language or who
 42 because of hearing, speaking, or other impairment has difficulty

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1 in communicating with other persons; and
2 (2) is a party or witness in any proceeding under this article;
3 is entitled to an interpreter to assist the person throughout the
4 proceeding under this article.

5 (b) The interpreter may be retained by the person or may be
6 appointed by the agency before which the proceeding is pending. If an
7 interpreter is appointed by the agency, the fee for the services of the
8 interpreter shall be set by the agency. The fee shall be paid from any
9 funds available to the agency or be paid in any other manner ordered
10 by the agency.

11 (c) Any agency may inquire into the qualifications and integrity of
12 any interpreter and may disqualify any person from serving as an
13 interpreter.

14 (d) Every interpreter for another person in a proceeding shall take
15 the following oath:

16 Do you affirm, under penalties of perjury, that you will justly, truly,
17 and impartially interpret to _____ the oath about to be administered
18 to him (her), the questions that may be asked him (her), and the
19 answers that he (she) shall give to the questions, relative to the cause
20 now under consideration before this agency?

21 (e) ~~IC 35-44-2-1~~ **IC 35-44.1-2-1** concerning perjury applies to an
22 interpreter.

23 SECTION 14. IC 4-33-4.5-1, AS ADDED BY P.L.170-2005,
24 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2012]: Sec. 1. (a) A gaming agent is vested with full police
26 powers and duties to enforce this article.

27 (b) A gaming agent may issue a summons for an infraction or a
28 misdemeanor violation if the defendant promises to appear by signing
29 the summons. A defendant who signs a summons issued under this
30 subsection but fails to appear is subject to the penalties provided by
31 ~~IC 35-44-3-6.5~~ **IC 35-44.1-2-10**. Upon the defendant's failure to
32 appear, the court shall issue a warrant for the arrest of the defendant.

33 (c) In addition to the powers and duties vested under subsection (a),
34 a gaming agent may act as an officer for the arrest of offenders who
35 violate the laws of Indiana if the gaming agent reasonably believes that
36 a crime has been, is being, or is about to be committed or attempted in
37 the gaming agent's presence.

38 SECTION 15. IC 5-4-1-19 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. The bonds
40 prescribed by IC 5-4-1-18 cover the faithful performance of the duties
41 of the officer or employee, including the duty to comply with
42 ~~IC 35-44-1-2~~ **IC 35-44.1-1-1** and the duty to account properly for all

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1 monies and property received by virtue of his position or employment.

2 SECTION 16. IC 5-10.4-3-16, AS ADDED BY P.L.2-2006,
3 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 16. A person who recklessly violates

5 ~~(1) IC 21-6.1-3-9 (repealed); IC 21-6.1-3-11 (repealed);~~
6 ~~IC 21-6.1-3-15 (repealed); or IC 21-6.1-3-18 (repealed); before~~
7 ~~July 1, 2006; or~~

8 ~~(2) section 10, 12, 14, or 15 of this chapter, after June 30, 2006;~~
9 ~~commits a Class A misdemeanor. **section 10, 12, 14, or 15 of this**~~
10 ~~**chapter is subject to criminal prosecution under IC 35-44.2-2-4.**~~

11 SECTION 17. IC 5-11-5-1, AS AMENDED BY P.L.176-2009,
12 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2012]: Sec. 1. (a) Whenever an examination is made under
14 this article, a report of the examination shall be made. The report must
15 include a list of findings and shall be signed and verified by the
16 examiner making the examination. A finding that is critical of an
17 examined entity must be based upon one (1) of the following:

18 (1) Failure of the entity to observe a uniform compliance
19 guideline established under IC 5-11-1-24(a).

20 (2) Failure of the entity to comply with a specific law.

21 A report that includes a finding that is critical of an examined entity
22 must designate the uniform compliance guideline or the specific law
23 upon which the finding is based. The reports shall immediately be filed
24 with the state examiner, and, after inspection of the report, the state
25 examiner shall immediately file one (1) copy with the officer or person
26 examined, one (1) copy with the auditing department of the
27 municipality examined and reported upon, and one (1) copy in an
28 electronic format under IC 5-14-6 of the reports of examination of state
29 agencies, instrumentalities of the state, and federal funds administered
30 by the state with the legislative services agency, as staff to the general
31 assembly. Upon filing, the report becomes a part of the public records
32 of the office of the state examiner, of the office or the person examined,
33 of the auditing department of the municipality examined and reported
34 upon, and of the legislative services agency, as staff to the general
35 assembly. A report is open to public inspection at all reasonable times
36 after it is filed. If an examination discloses malfeasance, misfeasance,
37 or nonfeasance in office or of any officer or employee, a copy of the
38 report, signed and verified, shall be placed by the state examiner with
39 the attorney general **and the inspector general**. The attorney general
40 shall diligently institute and prosecute civil proceedings against the
41 delinquent officer, or upon the officer's official bond, or both, and
42 against any other proper person that will secure to the state or to the

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1 proper municipality the recovery of any funds misappropriated,
 2 diverted, or unaccounted for.

3 (b) Before an examination report is signed, verified, and filed as
 4 required by subsection (a), the officer or the chief executive officer of
 5 the state office, municipality, or entity examined must have an
 6 opportunity to review the report and to file with the state examiner a
 7 written response to that report. If a written response is filed, it becomes
 8 a part of the examination report that is signed, verified, and filed as
 9 required by subsection (a).

10 (c) Except as required by subsections (b) and (d), it is unlawful for
 11 any deputy examiner, field examiner, or private examiner, before an
 12 examination report is made public as provided by this section, to make
 13 any disclosure of the result of any examination of any public account,
 14 except to the state examiner or if directed to give publicity to the
 15 examination report by the state examiner or by any court. If an
 16 examination report shows or discloses the commission of a crime by
 17 any person, it is the duty of the state examiner to transmit and present
 18 the examination report to the grand jury of the county in which the
 19 crime was committed at its first session after the making of the
 20 examination report and at any subsequent sessions that may be
 21 required. The state examiner shall furnish to the grand jury all evidence
 22 at the state examiner's command necessary in the investigation and
 23 prosecution of the crime.

24 (d) If, during an examination under this article, a deputy examiner,
 25 field examiner, or private examiner acting as an agent of the state
 26 examiner determines that the following conditions are satisfied, the
 27 examiner shall report the determination to the state examiner:

28 (1) A substantial amount of public funds has been
 29 misappropriated or diverted.

30 (2) The deputy examiner, field examiner, or private examiner
 31 acting as an agent of the state examiner has a reasonable belief
 32 that the malfeasance or misfeasance that resulted in the
 33 misappropriation or diversion of the public funds was committed
 34 by the officer or an employee of the office.

35 (e) After receiving a preliminary report under subsection (d), the
 36 state examiner may provide a copy of the report to the attorney general.
 37 The attorney general may institute and prosecute civil proceedings
 38 against the delinquent officer or employee, or upon the officer's or
 39 employee's official bond, or both, and against any other proper person
 40 that will secure to the state or to the proper municipality the recovery
 41 of any funds misappropriated, diverted, or unaccounted for.

42 (f) In an action under subsection (e), the attorney general may attach

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1 the defendant's property under IC 34-25-2.
 2 (g) A preliminary report under subsection (d) is confidential until
 3 the final report under subsection (a) is issued, unless the attorney
 4 general institutes an action under subsection (e) on the basis of the
 5 preliminary report.
 6 SECTION 18. IC 5-11-6-1, AS AMENDED BY P.L.176-2009,
 7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2012]: Sec. 1. (a) The state examiner, personally or through
 9 the deputy examiners, field examiners, or private examiners, upon the
 10 petition of twenty-five (25) interested taxpayers showing that effective
 11 local relief has not and cannot be obtained after due effort, shall make
 12 the inquiries, tests, examinations, and investigations that may be
 13 necessary to determine whether:
 14 (1) any public contract has been regularly and lawfully executed
 15 and performed; or
 16 (2) any public work, building, or structure has been or is being
 17 performed, built, or constructed in accordance with the terms and
 18 provisions of the contract, and in compliance with the plans and
 19 specifications, if any.
 20 Upon a written petition of twenty-five (25) taxpayers the state examiner
 21 may also require all plans, specifications, and estimates to be submitted
 22 to the state examiner for corrections and approval before a contract is
 23 awarded.
 24 (b) The state examiner, deputy examiner, and any field examiner,
 25 when engaged in making an inquiry, test, examination, or investigation
 26 under subsection (a), is entitled to examine and inspect any public
 27 records, documents, data, contracts, plans, and specifications contained
 28 or found in any public office or other place pertaining or relating to the
 29 public contract or public work, building, or structure. In addition,
 30 subpoenas may be issued to witnesses to appear before the examiner in
 31 person or to produce books and papers for inspection and examination.
 32 The state examiner, deputy, field, and private examiner may administer
 33 oaths and examine witnesses under oath either orally or by
 34 interrogatories on all matters under examination and investigation.
 35 Under order of the state examiner, the examination may be transcribed,
 36 with the reasonable expense paid by the municipality in the same
 37 manner as the compensation of the field examiner is paid.
 38 (c) The state examiner, the deputy examiner, and a field examiner
 39 may enforce attendance and answers to questions and interrogatories,
 40 as provided by law, with respect to examinations and investigations
 41 made by the state examiner, deputy examiner, field examiner, or
 42 private examiner of public offices.

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1 (d) The state examiner, deputy examiner, any field examiner, and
2 any private examiner, when making an examination or investigation
3 under subsection (a), shall examine, inspect, and test the public works,
4 buildings, or structures in the manner that the examiner sees fit to
5 determine whether it is being performed, built, or constructed
6 according to the contract and plans and specifications.

7 (e) The state examiner shall file a report covering any examination
8 or investigation that discloses:

9 (1) fraud, collusion, misconduct, or negligence in the letting or
10 the execution of any public contract or in the performance of any
11 of the terms and conditions of any public contract; or

12 (2) any failure to comply with the terms or conditions of any
13 public contract in the construction of any public work, building,
14 or structure or to perform, build, or construct it according to the
15 plans and specifications, if any, provided in the contract;
16 that causes loss, injury, waste, or damage to the state, the municipality,
17 taxing or assessment district, other public entity, or to its citizens, if it
18 is enforceable by assessment or taxation.

19 (f) The report must meet the following requirements:

20 (1) The report must be made, signed, and verified in
21 quadruplicate by the examiner making the examination.

22 (2) The report shall be filed promptly with the state examiner.
23 After inspection of the report, the state examiner shall file a copy of the
24 report promptly with the attorney general **and the inspector general.**

25 (g) The attorney general shall diligently institute and prosecute civil
26 proceedings against any or all officers, individuals, and persons in the
27 form and manner that the attorney general determines will secure a
28 proper recovery to the state, municipality, taxing or assessment district,
29 or other public entity injured, defrauded, or damaged by the matters in
30 the report. These prosecutions may be made by the attorney general and
31 the recovery may be had, either upon public official bonds, contractors'
32 bonds, surety or other bonds, or upon individual liability, either upon
33 contract or in tort, as the attorney general determines is wise. No action
34 or recovery in any form or manner, or against any party or parties,
35 precludes further or additional action or recovery in any other form or
36 manner or against another party, either concurrently with or later found
37 necessary, to secure complete recovery and restitution with respect to
38 all matters exhibited, set out, or described in the report. The suits may
39 be brought in the name of the state on the relation of the attorney
40 general for the benefit of the state, or the municipality, taxing or
41 assessment district, or other public entity that may be proper. The
42 actions brought against any defendants may be joined, as to parties,

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1 form, and causes of action, in the manner that the attorney general
2 decides.

3 (h) Any report described in this section or a copy duly certified by
4 the state examiner shall be taken and received in any and all courts of
5 this state as prima facie evidence of the facts stated and contained in
6 the reports.

7 (i) If an examination, investigation, or test is made without a petition
8 being first filed and the examination, investigation, or test shows that
9 the terms of the contract are being complied with, then the expense of
10 the examination, investigation, or test shall be paid by the state upon
11 vouchers approved by the state examiner from funds available for
12 contractual service of the state board of accounts. If such a report
13 shows misfeasance, malfeasance, or nonfeasance in public office or
14 shows that the terms of the plans and specifications under which a
15 contract has been awarded are not being complied with, it is unlawful
16 to make the report public until the report has been certified to the
17 attorney general.

18 (j) If, during an examination under this article, a deputy examiner,
19 field examiner, or private examiner acting as an agent of the state
20 examiner determines that all of the following conditions are satisfied,
21 the examiner shall report the determination to the state examiner:

22 (1) A substantial amount of public funds has been
23 misappropriated or diverted.

24 (2) The deputy examiner, field examiner, or private examiner
25 acting as an agent of the state examiner has a reasonable belief
26 that the malfeasance or misfeasance that resulted in the
27 misappropriation or diversion of public funds was committed by
28 the officer or an employee of the office.

29 (k) After receiving a preliminary report under subsection (j), the
30 state examiner may provide a copy of the report to the attorney general.
31 The attorney general may institute and prosecute civil proceedings
32 against the delinquent officer or employee, or upon the officer's or
33 employee's official bond, or both, and against any other proper person
34 that will secure to the state or to the proper municipality the recovery
35 of any funds misappropriated, diverted, or unaccounted for.

36 (l) In an action under subsection (k), the attorney general may attach
37 the defendant's property under IC 34-25-2.

38 (m) A preliminary report under subsection (j) is confidential until
39 the final report under subsection (e) is issued, unless the attorney
40 general institutes an action under subsection (k) on the basis of the
41 preliminary report.

42 SECTION 19. IC 5-11-6-3 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. If any examination
2 or investigation made by the state examiner personally or through a
3 deputy examiner, field examiner, or private examiner under of this
4 chapter or of **under** any other statute discloses:

- 5 (1) malfeasance, misfeasance, or nonfeasance in office, or of any
6 officer or employee;
- 7 (2) that any public money has been:
 - 8 (A) unlawfully expended, either by having been expended for
9 a purpose not authorized by law in an amount exceeding that
10 authorized by law, or by having been paid to a person not
11 lawfully entitled to receive it; or
 - 12 (B) obtained by fraud or in any unlawful manner; or
- 13 (3) that any money has been wrongfully withheld from the public
14 treasury;

15 a duly verified copy of the report shall be submitted by the state
16 examiner to the attorney general, who shall institute and prosecute civil
17 proceedings as provided in section 1 of this chapter, **and to the**
18 **inspector general.**

19 SECTION 20. IC 5-11-10-3 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A person who
21 ~~knowingly~~ violates section 1 of this chapter ~~commits a Class D felony.~~
22 **is subject to criminal prosecution under IC 35-44.2-2-3.**

23 SECTION 21. IC 5-13-5-1 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Every public
25 officer who receives or distributes public funds shall:

- 26 (1) keep a cashbook into which the public officer shall enter daily,
27 by item, all receipts of public funds; and
- 28 (2) balance the cashbook daily to show funds on hand at the close
29 of each day.

30 (b) The cashbook is a public record and is open to public inspection
31 in accordance with IC 5-14-3.

32 **(c) A person who violates this section is subject to criminal**
33 **prosecution under IC 35-44.2-2-2.**

34 SECTION 22. IC 5-13-14-3, AS AMENDED BY P.L.107-2011,
35 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2012]: Sec. 3. A public servant who **violates the depository**
37 **duties in this article is subject to criminal prosecution under**
38 **IC 35-44.2-2-1. knowingly or intentionally:**

- 39 (1) fails to deposit public funds; or
- 40 (2) deposits or draws any check or negotiable order of withdrawal
41 against the funds;

42 except in the manner prescribed in this article; commits a Class A

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1 misdemeanor. However, the offense is a Class D felony if the amount
2 involved is at least seven hundred fifty dollars (\$750); and a Class C
3 felony if the amount involved is at least fifty thousand dollars
4 (\$50,000). The public servant also is liable upon the public servant's
5 official bond for any loss or damage that ~~may accrue~~: **accrues.**

6 SECTION 23. IC 5-13-14-4 IS REPEALED [EFFECTIVE JULY 1,
7 2012]. ~~Sec. 4. A public servant who knowingly or intentionally fails to~~
8 ~~perform any duty imposed upon the public servant by this article, other~~
9 ~~than a duty for which a penalty is imposed by section 3 of this chapter,~~
10 ~~commits a Class B misdemeanor.~~

11 SECTION 24. IC 5-14-3-10 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) A public
13 employee, a public official, or an employee or officer of a contractor or
14 subcontractor of a public agency, except as provided by IC 4-15-10,
15 who knowingly or intentionally discloses information classified as
16 confidential by state statute, **including information declared**
17 **confidential under:**

- 18 (1) **section 4(a) of this chapter; or**
- 19 (2) **section 4(b) of this chapter if a public agency declared the**
20 **information to be confidential;**

21 commits a Class A misdemeanor.

22 (b) A public employee may be disciplined in accordance with the
23 personnel policies of the agency by which the employee is employed
24 if the employee intentionally, knowingly, or recklessly discloses or fails
25 to protect information classified as confidential by state statute.

26 (c) A public employee, a public official, or an employee or officer
27 of a contractor or subcontractor of a public agency who unintentionally
28 and unknowingly discloses confidential or erroneous information in
29 response to a request under IC 5-14-3-3(d) or who discloses
30 confidential information in reliance on an advisory opinion by the
31 public access counselor is immune from liability for such a disclosure.

32 (d) This section does not apply to any provision incorporated into
33 state law from a federal statute.

34 SECTION 25. IC 5-16-11-12 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. A consultant who
36 files a false disclosure under this chapter is subject to the penalties for
37 perjury under ~~IC 35-44-2-1~~: **IC 35-44.1-2-1.**

38 SECTION 26. IC 5-17-1-5 IS REPEALED [EFFECTIVE JULY 1,
39 2012]. ~~Sec. 5. A person making any such bid, offer, proposal, estimate~~
40 ~~or contract to sell or lease, who knowingly violates this chapter~~
41 ~~commits a Class D felony and may not be a party to or benefit from any~~
42 ~~contract with a public body in the state for two (2) years from the date~~

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1 of his conviction:
 2 SECTION 27. IC 5-17-1-6 IS REPEALED [EFFECTIVE JULY 1,
 3 2012]. ~~Sec. 6. Any person, officer, board, commissioner, department~~
 4 ~~commission or purchasing agent who knowingly violates any of the~~
 5 ~~terms of this chapter commits a Class D felony.~~
 6 SECTION 28. IC 7.1-2-2-9 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) An enforcement
 8 officer is vested with full police powers and duties to enforce:
 9 (1) the provisions of this title;
 10 (2) any other law of this state relating to alcohol or alcoholic
 11 beverages; and
 12 (3) tobacco laws, including tobacco vending machines.
 13 (b) An enforcement officer may issue a summons for infraction or
 14 misdemeanor violations if the defendant promises to appear by signing
 15 the summons. A defendant who fails to appear is subject to the
 16 penalties provided by ~~IC 35-44-3-6.5~~. **IC 35-44.1-2-10**. Upon failure
 17 to appear, the court shall issue a warrant for the arrest of the defendant.
 18 (c) In addition to the authority of an enforcement officer under
 19 subsection (a), an enforcement officer may act as an officer for the
 20 arrest of offenders against the laws of this state if the enforcement
 21 officer reasonably believes that a crime is or is about to be committed
 22 or attempted in the enforcement officer's presence.
 23 SECTION 29. IC 9-30-4-6, AS AMENDED BY P.L.100-2010,
 24 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2012]: Sec. 6. (a) Whenever the bureau suspends or revokes
 26 the current driver's license upon receiving a record of the conviction of
 27 a person for any offense under the motor vehicle laws not enumerated
 28 under subsection (b), the bureau may also suspend any of the
 29 certificates of registration and license plates issued for any motor
 30 vehicle registered in the name of the person so convicted. However, the
 31 bureau may not suspend the evidence of registration, unless otherwise
 32 required by law, if the person has given or gives and maintains during
 33 the three (3) years following the date of suspension or revocation proof
 34 of financial responsibility in the future in the manner specified in this
 35 section.
 36 (b) The bureau shall suspend or revoke without notice or hearing the
 37 current driver's license and all certificates of registration and license
 38 plates issued or registered in the name of a person who is convicted of
 39 any of the following:
 40 (1) Manslaughter or reckless homicide resulting from the
 41 operation of a motor vehicle.
 42 (2) Perjury or knowingly making a false affidavit to the

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1 department under this chapter or any other law requiring the
 2 registration of motor vehicles or regulating motor vehicle
 3 operation upon the highways.
 4 (3) A felony under Indiana motor vehicle laws or felony in the
 5 commission of which a motor vehicle is used.
 6 (4) Three (3) charges of criminal recklessness involving the use
 7 of a motor vehicle within the preceding twelve (12) months.
 8 (5) Failure to stop and give information or assistance or failure to
 9 stop and disclose the person's identity at the scene of an accident
 10 that has resulted in death, personal injury, or property damage in
 11 excess of two hundred dollars (\$200).
 12 (6) Possession, distribution, manufacture, cultivation, transfer,
 13 use, or sale of a controlled substance or counterfeit substance, or
 14 attempting or conspiring to possess, distribute, manufacture,
 15 cultivate, transfer, use, or sell a controlled substance or
 16 counterfeit substance.
 17 (c) The license of a person shall also be suspended upon conviction
 18 in another jurisdiction for any offense described in ~~subsections~~
 19 **subsection** (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5), except if property
 20 damage is less than two hundred dollars (\$200), the bureau may
 21 determine whether the driver's license and certificates of registration
 22 and license plates shall be suspended or revoked. The license of a
 23 person shall also be suspended upon conviction in another jurisdiction
 24 for any offense described in subsection (b)(6).
 25 (d) A suspension or revocation remains in effect and a new or
 26 renewal license may not be issued to the person and a motor vehicle
 27 may not be registered in the name of the person as follows:
 28 (1) Except as provided in subdivisions (2), (3), (4), and (5), and
 29 subject to section 6.5 of this chapter, for six (6) months from the
 30 date of conviction or on the date on which the person is otherwise
 31 eligible for a license, whichever is later. Except as provided in
 32 IC 35-48-4-15, this includes a person convicted of a crime for
 33 which the person's license is suspended or revoked under
 34 subsection (b)(6).
 35 (2) Subject to section 6.5 of this chapter, upon conviction of an
 36 offense described in subsection (b)(1), for a fixed period of not
 37 less than two (2) years and not more than five (5) years, to be
 38 fixed by the bureau based upon recommendation of the court
 39 entering a conviction. A new or reinstated license may not be
 40 issued to the person unless that person, within the three (3) years
 41 following the expiration of the suspension or revocation, gives
 42 and maintains in force at all times during the effective period of

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1 a new or reinstated license proof of financial responsibility in the
 2 future in the manner specified in this chapter. However, the
 3 liability of the insurance carrier under a motor vehicle liability
 4 policy that is furnished for proof of financial responsibility in the
 5 future as set out in this chapter becomes absolute whenever loss
 6 or damage covered by the policy occurs, and the satisfaction by
 7 the insured of a final judgment for loss or damage is not a
 8 condition precedent to the right or obligation of the carrier to
 9 make payment on account of loss or damage, but the insurance
 10 carrier has the right to settle a claim covered by the policy. If the
 11 settlement is made in good faith, the amount shall be deductive
 12 from the limits of liability specified in the policy. A policy may
 13 not be canceled or annulled with respect to a loss or damage by an
 14 agreement between the carrier and the insured after the insured
 15 has become responsible for the loss or damage, and a cancellation
 16 or annulment is void. The policy may provide that the insured or
 17 any other person covered by the policy shall reimburse the
 18 insurance carrier for payment made on account of any loss or
 19 damage claim or suit involving a breach of the terms, provisions,
 20 or conditions of the policy. If the policy provides for limits in
 21 excess of the limits specified in this chapter, the insurance carrier
 22 may plead against any plaintiff, with respect to the amount of the
 23 excess limits of liability, any defenses that the carrier may be
 24 entitled to plead against the insured. The policy may further
 25 provide for prorating of the insurance with other applicable valid
 26 and collectible insurance. An action does not lie against the
 27 insurance carrier by or on behalf of any claimant under the policy
 28 until a final judgment has been obtained after actual trial by or on
 29 behalf of any claimant under the policy.

30 (3) Subject to section 6.5 of this chapter, for the period ordered by
 31 a court under IC 35-48-4-15.

32 (4) Subject to section 6.5 of this chapter, if the person is convicted
 33 of a felony involving the use of a motor vehicle under
 34 ~~IC 35-44-3-3(b)~~ **IC 35-44.1-3-1(b)** and the person:

35 (A) exceeded the speed limit by at least twenty (20) miles per
 36 hour;

37 (B) committed criminal recklessness with a vehicle
 38 (IC 35-42-2-2); or

39 (C) engaged in aggressive driving (as defined in
 40 IC 9-21-8-55(b));

41 while committing the felony, for one (1) year after the date the
 42 person was convicted. The convicted person has the burden of

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1 applying for a new or renewal license and establishing that the
 2 one (1) year period described in this subdivision and subject to
 3 section 6.5 of this chapter has elapsed.

4 (5) Subject to section 6.5 of this chapter, if the person is convicted
 5 of a felony involving the use of a motor vehicle under
 6 ~~IC 35-44-3-3(b)~~, **IC 35-44.1-3-1(b)**, the person:

7 (A) exceeded the speed limit by at least twenty (20) miles per
 8 hour;

9 (B) committed criminal recklessness with a vehicle
 10 (IC 35-42-2-2); or

11 (C) engaged in aggressive driving (as defined in
 12 IC 9-21-8-55(b);

13 while committing the felony, and the person has a prior unrelated
 14 conviction for a felony under ~~IC 35-44-3-3(b)~~, **IC 35-44.1-3-1(b)**,
 15 for two (2) years after the date the person was convicted. The
 16 convicted person has the burden of applying for a new or renewal
 17 license and establishing that the two (2) year period described in
 18 this subdivision and subject to section 6.5 of this chapter has
 19 elapsed.

20 (e) The bureau may take action as required in this section upon
 21 receiving satisfactory evidence of a conviction of a person in another
 22 state.

23 (f) For the purpose of this chapter, "conviction" includes any of the
 24 following:

25 (1) A conviction upon a plea of guilty.

26 (2) A determination of guilt by a jury or court, even if:

27 (A) no sentence is imposed; or

28 (B) a sentence is suspended.

29 (3) A forfeiture of bail, bond, or collateral deposited to secure the
 30 defendant's appearance for trial, unless the forfeiture is vacated.

31 (4) A payment of money as a penalty or as costs in accordance
 32 with an agreement between a moving traffic violator and a traffic
 33 violations bureau.

34 (g) A suspension or revocation under this section or under
 35 IC 9-25-6-8 stands pending appeal of the conviction to a higher court
 36 and may be set aside or modified only upon the receipt by the bureau
 37 of the certificate of the court reversing or modifying the judgment that
 38 the cause has been reversed or modified. However, if the suspension or
 39 revocation follows a conviction in a court of no record in Indiana, the
 40 suspension or revocation is stayed pending appeal of the conviction to
 41 a court of record.

42 (h) A person aggrieved by an order or act of the bureau under this

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1 section or IC 9-25-6-8 may file a petition for a court review.
 2 SECTION 30. IC 10-16-19-1, AS ADDED BY P.L.10-2007,
 3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2012]: Sec. 1. (a) This section does not apply to an employee
 5 of the state subject to IC 4-15-10-8.
 6 (b) This section applies to an employee of a political subdivision
 7 who:
 8 (1) is a member of the civil air patrol; and
 9 (2) has notified the employee's employer in writing that the
 10 employee is a member of the civil air patrol.
 11 (c) A political subdivision employer may not discipline an
 12 employee:
 13 (1) for being absent from employment by reason of engaging in an
 14 emergency service operation that began before the time that the
 15 employee was to report to employment; or
 16 (2) for leaving the employee's duty station to engage in an
 17 emergency service operation if the emergency service operation
 18 began after the employee had reported for work and the employee
 19 secured authorization from the employee's supervisor to leave the
 20 employee's duty station before leaving to engage in the emergency
 21 service operation.
 22 (d) A political subdivision employer may require an employee who
 23 has been absent from employment as set forth in subsection (c)(1) or
 24 (c)(2) to present a written statement from the commander or other
 25 officer in charge of the civil air patrol at the time of the absence
 26 indicating that the employee was engaged in an emergency service
 27 operation at the time of the absence.
 28 (e) An employee who is disciplined by the employee's employer in
 29 violation of subsection (c) may bring a civil action against the employer
 30 in the county of employment. In the action, the employee may seek the
 31 following:
 32 (1) Payment of back wages.
 33 (2) Reinstatement to the employee's former position.
 34 (3) Fringe benefits wrongly denied or withdrawn.
 35 (4) Seniority rights wrongly denied or withdrawn.
 36 An action brought under this subsection must be filed within one (1)
 37 year after the date of the disciplinary action.
 38 (f) A public servant (as defined in IC 35-41-1-24) who permits or
 39 authorizes an employee of a political subdivision under the supervision
 40 of the public servant to be absent from employment as set forth in
 41 subsection (c) is not considered to have committed a violation of
 42 ~~IC 35-44-2-4(b)~~; **IC 35-44.1-1-3(b)**.

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1 SECTION 31. IC 11-12-3.7-6 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. As used in this
 3 chapter, "violent offense" means one (1) or more of the following
 4 offenses:

- 5 (1) Murder (IC 35-42-1-1).
 6 (2) Attempted murder (IC 35-41-5-1).
 7 (3) Voluntary manslaughter (IC 35-42-1-3).
 8 (4) Involuntary manslaughter (IC 35-42-1-4).
 9 (5) Reckless homicide (IC 35-42-1-5).
 10 (6) Aggravated battery (IC 35-42-2-1.5).
 11 (7) Battery (IC 35-42-2-1) as a Class A felony, Class B felony, or
 12 Class C felony.
 13 (8) Kidnapping (IC 35-42-3-2).
 14 (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8 that
 15 is a Class A felony, Class B felony, or Class C felony.
 16 (10) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A
 17 felony or Class B felony.
 18 (11) Incest (IC 35-46-1-3).
 19 (12) Robbery as a Class A felony or a Class B felony
 20 (IC 35-42-5-1).
 21 (13) Burglary as a Class A felony or a Class B felony
 22 (IC 35-43-2-1).
 23 (14) Carjacking (IC 35-42-5-2).
 24 (15) Assisting a criminal as a Class C felony (~~IC 35-44-3-2~~)
 25 **(IC 35-44.1-2-5)**.
 26 (16) Escape (~~IC 35-44-3-5~~; **IC 35-44.1-3-4**) as a Class B felony
 27 or Class C felony.
 28 (17) Trafficking with an inmate as a Class C felony
 29 (~~IC 35-44-3-9~~; **IC 35-44.1-3-5**).
 30 (18) Causing death when operating a motor vehicle (IC 9-30-5-5).
 31 (19) Criminal confinement (IC 35-42-3-3) as a Class B felony.
 32 (20) Arson (IC 35-43-1-1) as a Class A or Class B felony.
 33 (21) Possession, use, or manufacture of a weapon of mass
 34 destruction (IC 35-47-12-1).
 35 (22) Terroristic mischief (IC 35-47-12-3) as a Class B felony.
 36 (23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
 37 (24) A violation of IC 35-47.5 (Controlled explosives) as a Class
 38 A or Class B felony.
 39 (25) A crime under the laws of another jurisdiction, including a
 40 military court, that is substantially similar to any of the offenses
 41 listed in this subdivision.
 42 (26) Any other crimes evidencing a propensity or history of

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1 violence.

2 SECTION 32. IC 13-18-10-1.4, AS ADDED BY P.L.127-2009,

3 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

4 JULY 1, 2012]: Sec. 1.4. (a) Subject to subsection (b), an application

5 for approval under section 1 of this chapter must include for each

6 responsible party the disclosure statement referred to in subsection (c)

7 if either or both of the following apply:

8 (1) State or federal officials at any time alleged that the

9 responsible party committed acts or omissions that constituted a

10 material violation of state or federal environmental law.

11 (2) Foreign officials at any time alleged that the responsible party

12 committed acts or omissions that:

13 (A) constituted a material violation of foreign environmental

14 law; and

15 (B) would have constituted a material violation of state or

16 federal environmental law if the act or omission had occurred

17 in the United States.

18 (b) Subsection (a):

19 (1) applies only if the acts or omissions alleged under subsection

20 (a)(1) or (a)(2) presented a substantial endangerment to human

21 health or the environment; and

22 (2) does not apply to a renewal of an approval under section 1 of

23 this chapter that does not involve construction or expansion as

24 described in section 1 of this chapter.

25 (c) A responsible party referred to in subsection (a) must make

26 reasonable efforts to provide complete and accurate information to the

27 department in a disclosure statement that includes the following:

28 (1) The name and business address of the responsible party.

29 (2) A description of the responsible party's experience in

30 managing the environmental aspects of the type of facility that

31 will be managed under the permit.

32 (3) A description of all pending administrative, civil, or criminal

33 enforcement actions filed in the United States against the

34 responsible party alleging any acts or omissions that:

35 (A) constitute a material violation of state or federal

36 environmental law; and

37 (B) present a substantial endangerment to human health or the

38 environment.

39 (4) A description of all pending administrative, civil, or criminal

40 enforcement actions filed in a foreign country against the

41 responsible party alleging any acts or omissions that:

42 (A) constitute a material violation of foreign environmental

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- 1 law;
- 2 (B) would have constituted a material violation of state or
- 3 federal environmental law if the act or omission on which the
- 4 action is based had occurred in the United States; and
- 5 (C) present a substantial endangerment to human health or the
- 6 environment.
- 7 (5) A description of all finally adjudicated or settled
- 8 administrative, civil, or criminal enforcement actions in the
- 9 United States resolved against the responsible party within the
- 10 five (5) years that immediately precede the date of the application
- 11 involving acts or omissions that:
- 12 (A) constitute a material violation of federal or state
- 13 environmental law; and
- 14 (B) present a substantial endangerment to human health or the
- 15 environment.
- 16 (6) A description of all finally adjudicated or settled
- 17 administrative, civil, or criminal enforcement actions in a foreign
- 18 country resolved against the responsible party within the five (5)
- 19 years that immediately precede the date of the application
- 20 involving acts or omissions that:
- 21 (A) constitute a material violation of foreign environmental
- 22 law;
- 23 (B) would have constituted a material violation of state or
- 24 federal environmental law if the act or omission on which the
- 25 action is based had occurred in the United States; and
- 26 (C) present a substantial endangerment to human health or the
- 27 environment.
- 28 (7) Identification of all state, federal, or foreign environmental
- 29 permits:
- 30 (A) applied for by the responsible party that were denied; or
- 31 (B) previously held by the responsible party that were revoked.
- 32 (d) A disclosure statement submitted under subsection (c):
- 33 (1) must be executed under oath or affirmation; and
- 34 (2) is subject to the penalty for perjury under ~~IC 35-44-2-1.~~
- 35 **IC 35-44.1-2-1.**
- 36 (e) The department may investigate and verify the information set
- 37 forth in a disclosure statement submitted under this section.
- 38 SECTION 33. IC 13-19-4-3, AS AMENDED BY P.L.114-2008,
- 39 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 40 JULY 1, 2012]: Sec. 3. (a) In a disclosure statement required by section
- 41 2 of this chapter, the applicant or responsible party shall set forth the
- 42 following information:

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- 1 (1) The name and business address of the applicant or responsible
- 2 party.
- 3 (2) A description of the applicant's or responsible party's
- 4 experience in managing the type of waste that will be managed
- 5 under the permit.
- 6 (3) A description of all civil and administrative complaints
- 7 against the applicant or responsible party for the violation of any
- 8 state or federal environmental protection law that:
- 9 (A) have resulted in a fine or penalty of more than ten
- 10 thousand dollars (\$10,000) within five (5) years before the
- 11 date of the submission of the application; or
- 12 (B) allege an act or omission that:
- 13 (i) constitutes a material violation of the state or federal
- 14 environmental protection law; and
- 15 (ii) presented a substantial endangerment to the public
- 16 health or the environment.
- 17 (4) A description of all pending criminal complaints alleging the
- 18 violation of any state or federal environmental protection law that
- 19 have been filed against the applicant or responsible party within
- 20 five (5) years before the date of submission of the application.
- 21 (5) A description of all judgments of criminal conviction entered
- 22 against the applicant or responsible party within five (5) years
- 23 before the date of submission of the application for the violation
- 24 of any state or federal environmental protection law.
- 25 (6) A description of all judgments of criminal conviction of a
- 26 felony constituting a crime of moral turpitude under the laws of
- 27 any state or the United States that are entered against the
- 28 applicant or responsible party within five (5) years before the date
- 29 of submission of the application.
- 30 (7) The location of all facilities at which the applicant or
- 31 responsible party manages the type of waste that would be
- 32 managed under the permit to which the application refers.
- 33 (b) A disclosure statement submitted under section 2(1) of this
- 34 chapter:
- 35 (1) must be executed under oath or affirmation; and
- 36 (2) is subject to the penalty for perjury under ~~IC 35-44-2-1.~~
- 37 **IC 35-44.1-2-1.**
- 38 SECTION 34. IC 13-20-2-2 IS AMENDED TO READ AS
- 39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. Before an original
- 40 permit for the construction or operation of a landfill may be granted,
- 41 the applicant or a person authorized to act for the applicant under this
- 42 section must submit a statement in which the applicant or authorized

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1 person swears or affirms, subject to the penalty for perjury set forth in
 2 ~~IC 35-44-2-1~~, **IC 35-44.1-2-1**, that, to the best of the applicant's or
 3 authorized person's knowledge, there are no unsatisfied and
 4 nonappealable judgments requiring the payment of money by the
 5 applicant.

6 SECTION 35. IC 14-34-2-6 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) An employee of
 8 the department who has a duty under this article may not have a direct
 9 or an indirect financial interest in a surface coal mining operation.

10 (b) In addition to the filings required under ~~IC 35-44-1~~, **IC 35-44.1**,
 11 each member of the commission shall file annually with the director a
 12 statement of employment and financial interest on a form prescribed by
 13 the department.

14 (c) A member of the commission may not participate in a
 15 proceeding that may affect the member's direct or indirect financial
 16 interests.

17 (d) A person who knowingly violates this section commits a Class
 18 A misdemeanor.

19 SECTION 36. IC 16-19-4-4 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The state health
 21 commissioner is governed in the performance of the state health
 22 commissioner's official duties by IC 4-2-6 and ~~IC 35-44-1-3~~
 23 **IC 35-44.1-1-4** concerning ethics and conflict of interest.

24 (b) To learn professional skills and to become familiar with new
 25 developments in the field of medicine, the state health commissioner
 26 may, in an individual capacity as a licensed physician and not in an
 27 official capacity as state health commissioner, engage in the practice
 28 of medicine if the practice of medicine does not interfere with the
 29 performance of the state health commissioner's duties as state health
 30 commissioner.

31 SECTION 37. IC 20-25-3-3, AS ADDED BY P.L.1-2005,
 32 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2012]: Sec. 3. (a) A member of the board must:

- 34 (1) be a resident voter of the school city; and
- 35 (2) have been a resident of the school city for at least one (1) year
 36 immediately preceding the member's election.

37 (b) A board member may not:

- 38 (1) serve in an elective or appointive office under the board or
 39 under the government of the civil city while serving on the board;
 40 or
- 41 (2) knowingly have a pecuniary interest as described in
 42 ~~IC 35-44-1-3(g)~~ **IC 35-44.1-1-4** in a contract or purchase with the

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1 school city in which the member is elected.
 2 If, at any time after a member is elected to the board, the board member
 3 knowingly acquires a pecuniary interest in a contract or purchase with
 4 the school city, the member is disqualified to continue as a member of
 5 the board, and a vacancy in the office is created.
 6 (c) Each member of the board shall, before assuming the duties of
 7 office, take an oath, before a person qualified to administer oaths, that:
 8 (1) the member possesses all the qualifications required by this
 9 chapter for membership on the board;
 10 (2) the member will honestly and faithfully discharge the duties
 11 of office;
 12 (3) the member will not, while serving as a member of the board,
 13 become interested, directly or indirectly, in any contract with or
 14 claim against the school city, except as authorized by law; ~~and~~
 15 (4) in the performance of official duties as a member of the board,
 16 including the selection of the board's officers, agents, and
 17 employees, the member will not be influenced by any
 18 consideration of politics or religion; and
 19 (5) the member will be controlled in the selection of officers,
 20 agents, and employees only by considerations of merit, fitness,
 21 and qualification.
 22 (d) Board members are entitled to receive compensation not to
 23 exceed the amount allowed under IC 20-26-4-6 and a per diem not to
 24 exceed the rate approved for members of the city-county council
 25 established under IC 36-3-4 for attendance at each regular and
 26 committee meeting as determined by the board.
 27 SECTION 38. IC 21-9-4-13 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. Notwithstanding
 29 any other law, it is not a conflict of interest or violation of any other
 30 law for a person to serve as a member of the authority. However, a
 31 member shall disclose a conflict of interest relating to actions of the
 32 authority as required and in a manner provided by ~~IC 35-44-1-3.~~
 33 **IC 35-44.1-1-4.**
 34 SECTION 39. IC 23-2-5-11, AS AMENDED BY P.L.114-2010,
 35 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2012]: Sec. 11. (a) The commissioner may do the following:
 37 (1) Adopt rules under IC 4-22-2 to implement this chapter.
 38 (2) Make investigations and examinations:
 39 (A) in connection with any application for licensure under this
 40 chapter or with any license already granted; or
 41 (B) whenever it appears to the commissioner, upon the basis
 42 of a complaint or information, that reasonable grounds exist

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- 1 for the belief that an investigation or examination is necessary
- 2 or advisable for the more complete protection of the interests
- 3 of the public.
- 4 (3) Charge as costs of investigation or examination all reasonable
- 5 expenses, including a per diem prorated upon the salary of the
- 6 commissioner or employee and actual traveling and hotel
- 7 expenses. All reasonable expenses are to be paid by the party or
- 8 parties under investigation or examination if the party has violated
- 9 this chapter.
- 10 (4) Issue notices and orders, including cease and desist notices
- 11 and orders, after making an investigation or examination under
- 12 subdivision (2). The commissioner shall notify the person that an
- 13 order or notice has been issued, the reasons for it, and that a
- 14 hearing will be set not later than fifteen (15) business days after
- 15 the commissioner receives a written request from the person
- 16 requesting a hearing if the original order issued by the
- 17 commissioner was a summary suspension, summary revocation,
- 18 or denial of a license and not later than forty-five (45) business
- 19 days after the commissioner receives a written request from the
- 20 person requesting a hearing for all other orders.
- 21 (5) Sign all orders, official certifications, documents, or papers
- 22 issued under this chapter or delegate the authority to sign any of
- 23 those items to a deputy.
- 24 (6) Hold and conduct hearings.
- 25 (7) Hear evidence.
- 26 (8) Conduct inquiries with or without hearings.
- 27 (9) Receive reports of investigators or other officers or employees
- 28 of the state of Indiana or of any municipal corporation or
- 29 governmental subdivision within the state.
- 30 (10) Administer oaths, or cause them to be administered.
- 31 (11) Subpoena witnesses, and compel them to attend and testify.
- 32 (12) Compel the production of books, records, and other
- 33 documents.
- 34 (13) Order depositions to be taken of any witness residing within
- 35 or without the state. The depositions shall be taken in the manner
- 36 prescribed by law for depositions in civil actions and made
- 37 returnable to the commissioner.
- 38 (14) Order that each witness appearing under the commissioner's
- 39 order to testify before the commissioner shall receive the fees and
- 40 mileage allowances provided for witnesses in civil cases.
- 41 (15) Provide interpretive opinions or issue determinations that the
- 42 commissioner will not institute a proceeding or an action under

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1 this chapter against a specified person for engaging in a specified
 2 act, practice, or course of business if the determination is
 3 consistent with this chapter. The commissioner may adopt rules
 4 to establish fees for individuals requesting an interpretive opinion
 5 or a determination under this subdivision. A person may not
 6 request an interpretive opinion or a determination concerning an
 7 activity that:

8 (A) occurred before; or

9 (B) is occurring on;

10 the date the opinion or determination is requested.

11 (16) Subject to subsection (f), designate a multistate automated
 12 licensing system and repository, established and operated by a
 13 third party, to serve as the sole entity responsible for:

14 (A) processing applications for:

15 (i) licenses under this chapter; and

16 (ii) renewals of licenses under this chapter; and

17 (B) performing other services that the commissioner
 18 determines are necessary for the orderly administration of the
 19 division's licensing system.

20 A multistate automated licensing system and repository described
 21 in this subdivision may include the Nationwide Mortgage
 22 Licensing System and Registry established by the Conference of
 23 State Bank Supervisors and the American Association of
 24 Residential Mortgage Regulators. The commissioner may take
 25 any action necessary to allow the division to participate in a
 26 multistate automated licensing system and repository.

27 (b) If a witness, in any hearing, inquiry, or investigation conducted
 28 under this chapter, refuses to answer any question or produce any item,
 29 the commissioner may file a written petition with the circuit or superior
 30 court in the county where the hearing, investigation, or inquiry in
 31 question is being conducted requesting a hearing on the refusal. The
 32 court shall hold a hearing to determine if the witness may refuse to
 33 answer the question or produce the item. If the court determines that
 34 the witness, based upon the witness's privilege against
 35 self-incrimination, may properly refuse to answer or produce an item,
 36 the commissioner may make a written request that the court grant use
 37 immunity to the witness. Upon written request of the commissioner, the
 38 court shall grant use immunity to a witness. The court shall instruct the
 39 witness, by written order or in open court, that:

40 (1) any evidence the witness gives, or evidence derived from that
 41 evidence, may not be used in any criminal proceedings against
 42 that witness, unless the evidence is volunteered by the witness or

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1 is not responsive to a question; and

2 (2) the witness must answer the questions asked and produce the
3 items requested.

4 A grant of use immunity does not prohibit evidence that the witness
5 gives in a hearing, investigation, or inquiry from being used in a
6 prosecution for perjury under ~~IC 35-44-2-1~~. **IC 35-44.1-2-1**. If a
7 witness refuses to give the evidence after the witness has been granted
8 use immunity, the court may find the witness in contempt.

9 (c) In any prosecution, action, suit, or proceeding based upon or
10 arising out of this chapter, the commissioner may sign a certificate
11 showing compliance or noncompliance with this chapter by any person.
12 This shall constitute prima facie evidence of compliance or
13 noncompliance with this chapter and shall be admissible in evidence
14 in any action at law or in equity to enforce this chapter.

15 (d) If:

16 (1) a person disobeys any lawful:

17 (A) subpoena issued under this chapter; or

18 (B) order or demand requiring the production of any books,
19 accounts, papers, records, documents, or other evidence or
20 information as provided in this chapter; or

21 (2) a witness refuses to:

22 (A) appear when subpoenaed;

23 (B) testify to any matter about which the witness may be
24 lawfully interrogated; or

25 (C) take or subscribe to any oath required by this chapter;

26 the circuit or superior court of the county in which the hearing, inquiry,
27 or investigation in question is held, if demand is made or if, upon
28 written petition, the production is ordered to be made, or the
29 commissioner or a hearing officer appointed by the commissioner, shall
30 compel compliance with the lawful requirements of the subpoena,
31 order, or demand, compel the production of the necessary or required
32 books, papers, records, documents, and other evidence and
33 information, and compel any witness to attend in any Indiana county
34 and to testify to any matter about which the witness may lawfully be
35 interrogated, and to take or subscribe to any oath required.

36 (e) If a person fails, refuses, or neglects to comply with a court order
37 under this section, the person shall be punished for contempt of court.

38 (f) The commissioner's authority to designate a multistate automated
39 licensing system and repository under subsection (a)(16) is subject to
40 the following:

41 (1) The commissioner may not require any person that is not
42 required to be licensed under this chapter, or any employee or

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1 agent of a person that is not required to be licensed under this
 2 chapter, to:
 3 (A) submit information to; or
 4 (B) participate in;
 5 the multistate automated licensing system and repository.
 6 (2) The commissioner may require a person required under this
 7 chapter to submit information to the multistate automated
 8 licensing system and repository to pay a processing fee considered
 9 reasonable by the commissioner.
 10 SECTION 40. IC 23-19-6-2, AS ADDED BY P.L.27-2007,
 11 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2012]: Sec. 2. (a) The commissioner may:
 13 (1) conduct public or private investigations within or outside this
 14 state which the commissioner considers necessary or appropriate
 15 to determine whether a person has violated, is violating, or is
 16 about to violate this article or a rule adopted or order issued under
 17 this article, or to aid in the enforcement of this article or in the
 18 adoption of rules and forms under this article;
 19 (2) require or permit a person to testify, file a statement, or
 20 produce a record, under oath or otherwise as the commissioner
 21 determines, as to all the facts and circumstances concerning a
 22 matter to be investigated or about which an action or proceeding
 23 is to be instituted; and
 24 (3) publish a record concerning an action, proceeding, or an
 25 investigation under, or a violation of, this article or a rule adopted
 26 or order issued under this article if the commissioner determines
 27 it is necessary or appropriate in the public interest and for the
 28 protection of investors.
 29 (b) For the purpose of an investigation under this article, the
 30 commissioner or the commissioner's designated officer may administer
 31 oaths and affirmations, subpoena witnesses, seek compulsion of
 32 attendance, take evidence, require the filing of statements, and require
 33 the production of any records that the commissioner considers relevant
 34 or material to the investigation. Upon order of the commissioner or a
 35 hearing officer appointed by the commissioner in any hearing,
 36 depositions may be taken in the manner prescribed by law for
 37 depositions in civil actions and made returnable to the commissioner
 38 or a hearing officer appointed by the commissioner.
 39 (c) If a person does not appear or refuses to testify, file a statement,
 40 or produce records, or otherwise does not obey a subpoena as required
 41 by this article, the commissioner or hearing officer appointed by the
 42 commissioner may apply to the circuit or superior court in the county

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1 where the hearing, investigation, or inquiry in question is being
2 conducted to enforce compliance. The court may:

- 3 (1) hold the person in contempt;
4 (2) order the person to appear before the commissioner or hearing
5 officer appointed by the commissioner;
6 (3) order the person to testify about the matter under investigation
7 or in question;
8 (4) order the production of records;
9 (5) grant injunctive relief, including restricting or prohibiting the
10 offer or sale of securities or the providing of investment advice;
11 (6) impose a civil penalty of not more than twenty thousand
12 dollars (\$20,000) for each violation; and
13 (7) grant any other necessary or appropriate relief.

14 (d) This section does not preclude a person from applying to the
15 circuit or superior court in the county where the hearing, investigation,
16 or inquiry in question is being conducted for relief from a request to
17 appear, testify, file a statement, produce records, or obey a subpoena.

18 (e) If a witness, in any hearing, inquiry, or investigation conducted
19 under this article, refuses to answer any question or produce any item,
20 the commissioner may file a written petition with the circuit or superior
21 court in the county where the hearing, investigation, or inquiry in
22 question is being conducted requesting a hearing on the refusal. The
23 court shall hold a hearing to determine if the witness may refuse to
24 answer the question or produce the item. If the court determines that
25 the witness, based upon the witness's privilege against
26 self-incrimination, may properly refuse to answer or produce an item,
27 the commissioner may make a written request that the court grant use
28 immunity to the witness. Upon written request of the commissioner, the
29 court shall grant use immunity to a witness. The court shall instruct the
30 witness, by written order or in open court, that:

- 31 (1) any evidence the witness gives, or evidence derived from that
32 evidence, may not be used in any criminal proceedings against
33 that witness, unless the evidence is volunteered by the witness or
34 is not responsive to a question; and
35 (2) the witness must answer the questions asked and produce the
36 items requested. A grant of use immunity does not prohibit the
37 use of evidence that the witness gives in a hearing, investigation,
38 or inquiry from being used in a prosecution for perjury under
39 ~~IC 35-44-2-1~~. **IC 35-44.1-2-1**. If a witness refuses to give the
40 evidence after the witness has been granted use immunity, the
41 court may find the witness in contempt.

42 (f) At the request of the securities regulator of another state or a

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1 foreign jurisdiction, the commissioner may provide assistance if the
 2 requesting regulator states that it is conducting an investigation to
 3 determine whether a person has violated, is violating, or is about to
 4 violate a law or rule of the other state or foreign jurisdiction relating to
 5 securities matters that the requesting regulator administers or enforces.
 6 The commissioner may provide the assistance by using the authority to
 7 investigate and the powers conferred by this section as the
 8 commissioner determines is necessary or appropriate. The assistance
 9 may be provided without regard to whether the conduct described in
 10 the request would also constitute a violation of this article or other law
 11 of this state if occurring in this state. In deciding whether to provide the
 12 assistance, the commissioner may consider whether the requesting
 13 regulator is permitted and has agreed to provide assistance reciprocally
 14 within its state or foreign jurisdiction to the commissioner on securities
 15 matters when requested; whether compliance with the request would
 16 violate or prejudice the public policy of this state; and the availability
 17 of resources and employees of the commissioner to carry out the
 18 request for assistance.

19 (g) In any prosecution, action, suit, or proceeding based upon or
 20 arising out of or under the provisions of this article, a certificate duly
 21 signed by the commissioner showing compliance or noncompliance
 22 with the provisions of this article, respecting the security in question or
 23 respecting compliance or noncompliance of this article, by any issuer,
 24 broker-dealer, investment advisor, or agent, shall constitute prima facie
 25 evidence of compliance or noncompliance with the provisions of this
 26 article, as the case may be, and shall be admissible in evidence in any
 27 action at law or in equity to enforce this article.

28 (h) Each witness who shall appear before the commissioner or a
 29 hearing officer appointed by the commissioner by order shall receive
 30 for the witness's attendance the fees and mileage provided for witnesses
 31 in civil cases, which shall be audited and paid by the state in the same
 32 manner as other expenses of the securities division are audited and paid
 33 upon the presentation of proper vouchers sworn to by the witnesses and
 34 approved by the commissioner. However, no witnesses subpoenaed at
 35 the instance of parties other than the commissioner or a hearing officer
 36 appointed by the commissioner shall be entitled to any fee or
 37 compensation from the state.

38 SECTION 41. IC 25-36.5-1-3.5 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3.5. (a) A timber buyer
 40 who intends to cease doing business as a timber buyer in Indiana and
 41 who seeks the return of a deposit of cash or a certificate of deposit that
 42 the timber buyer submitted to the department under section 3(b) of this



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- 1 chapter must submit the following to the department:
 2 (1) A written request for the return of the cash or certificate of
 3 deposit.
 4 (2) An affidavit meeting the requirements set forth in subsection
 5 (b).
 6 (b) To obtain the return of a deposit of cash or a certificate of
 7 deposit under this section, a timber buyer must execute an affidavit
 8 stating under the penalty for perjury set forth in ~~IC 35-44-2-1~~
 9 **IC 35-44.1-2-1** that the timber buyer:
 10 (1) has ceased doing business as a timber buyer in Indiana;
 11 (2) will not resume business as a timber buyer in Indiana after the
 12 date of the affidavit without filing a surety bond or submitting a
 13 new deposit of cash or certificate of deposit to the department;
 14 (3) has not purchased, taken, or cut any timber for which the
 15 timber grower has not been paid; and
 16 (4) is not a party to an executory contract for the purchase of
 17 timber under which the timber buyer has one (1) or more duties
 18 that have not been performed.
 19 (c) Upon receiving a written request described in subsection (a)(1)
 20 and an affidavit meeting the requirements of subsection (b), the
 21 department shall publish a notice of the request in at least one (1)
 22 publication commonly read by persons active in forestry in Indiana.
 23 The notice must do the following:
 24 (1) Identify the timber buyer requesting the release of the cash or
 25 certificate of deposit.
 26 (2) Indicate the date of the request.
 27 (3) State that the cash or certificate of deposit will be released to
 28 the timber buyer on a particular date, which must be at least sixty
 29 (60) days after the date of publication of the notice, unless the
 30 department is informed of a reason why the cash or certificate of
 31 deposit should not be released.
 32 (d) On the date set forth under subsection (c)(3) in the notice given
 33 by the department, the department shall return the cash or certificate of
 34 deposit to the timber buyer unless the department has obtained
 35 information indicating that a statement set forth in the timber buyer's
 36 affidavit is false.
 37 SECTION 42. IC 31-37-4-3, AS AMENDED BY P.L.3-2008,
 38 SECTION 240, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) This section applies if a child
 40 is arrested or taken into custody for allegedly committing an act that
 41 would be any of the following crimes if committed by an adult:
 42 (1) Murder (IC 35-42-1-1).

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- 1 (2) Attempted murder (IC 35-41-5-1).
 2 (3) Voluntary manslaughter (IC 35-42-1-3).
 3 (4) Involuntary manslaughter (IC 35-42-1-4).
 4 (5) Reckless homicide (IC 35-42-1-5).
 5 (6) Aggravated battery (IC 35-42-2-1.5).
 6 (7) Battery (IC 35-42-2-1).
 7 (8) Kidnapping (IC 35-42-3-2).
 8 (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
 9 (10) Sexual misconduct with a minor (IC 35-42-4-9).
 10 (11) Incest (IC 35-46-1-3).
 11 (12) Robbery as a Class A felony or a Class B felony
 12 (IC 35-42-5-1).
 13 (13) Burglary as a Class A felony or a Class B felony
 14 (IC 35-43-2-1).
 15 (14) Carjacking (IC 35-42-5-2).
 16 (15) Assisting a criminal as a Class C felony (~~IC 35-44-3-2~~).
 17 **(IC 35-44.1-2-5)**.
 18 (16) Escape (~~IC 35-44-3-5~~) **(IC 35-44.1-3-4)** as a Class B felony
 19 or Class C felony.
 20 (17) Trafficking with an inmate as a Class C felony
 21 (~~IC 35-44-3-9~~) **(IC 35-44.1-3-5)**.
 22 (18) Causing death when operating a motor vehicle (IC 9-30-5-5).
 23 (19) Criminal confinement (IC 35-42-3-3) as a Class B felony.
 24 (20) Arson (IC 35-43-1-1) as a Class A or Class B felony.
 25 (21) Possession, use, or manufacture of a weapon of mass
 26 destruction (IC 35-47-12-1).
 27 (22) Terroristic mischief (IC 35-47-12-3) as a Class B felony.
 28 (23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
 29 (24) A violation of IC 35-47.5 (controlled explosives) as a Class
 30 A or Class B felony.
 31 (25) A controlled substances offense under IC 35-48.
 32 (26) A criminal gang offense under IC 35-45-9.
 33 (b) If a child is taken into custody under this chapter for a crime or
 34 act listed in subsection (a), the law enforcement agency that employs
 35 the law enforcement officer who takes the child into custody shall
 36 notify the chief administrative officer of the primary or secondary
 37 school, including a public or nonpublic school, in which the child is
 38 enrolled or, if the child is enrolled in a public school, the
 39 superintendent of the school district in which the child is enrolled:
 40 (1) that the child was taken into custody; and
 41 (2) of the reason why the child was taken into custody.
 42 (c) The notification under subsection (b) must occur within

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1 forty-eight (48) hours after the child is taken into custody.
2 (d) A law enforcement agency may not disclose information that is
3 confidential under state or federal law to a school or school district
4 under this section.

5 SECTION 43. IC 34-28-4-1 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. A person who is
7 dismissed from employment in violation of ~~IC 35-44-3-10~~
8 **IC 35-44.1-2-11** may bring a civil action, within ninety (90) days of the
9 dismissal, against the employer who dismissed the person:

- 10 (1) to recover the wages the person lost as a result of the
 - 11 dismissal; and
 - 12 (2) to obtain an order requiring reinstatement by the employer.
- 13 If the person obtains a judgment against the employer, the court shall
14 award a reasonable attorney's fee to the person's attorney.

15 SECTION 44. IC 34-46-2-32 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 32. ~~IC 35-44-3-4~~
17 **IC 35-44.1-2-2** (Concerning inapplicability of obstruction of justice
18 provisions for persons who qualify for certain privileges).

19 SECTION 45. IC 35-33.5-1-3, AS AMENDED BY P.L.3-2008,
20 SECTION 247, IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2012]: Sec. 3. "Designated offense" means the
22 following:

- 23 (1) A Class A, Class B, or Class C felony that is a controlled
- 24 substance offense (IC 35-48-4).
- 25 (2) Murder (IC 35-42-1-1).
- 26 (3) Kidnapping (IC 35-42-3-2).
- 27 (4) Criminal confinement (IC 35-42-3-3).
- 28 (5) Robbery (IC 35-42-5-1).
- 29 (6) Arson (IC 35-43-1-1).
- 30 (7) Child solicitation (IC 35-42-4-6).
- 31 (8) Human and sexual trafficking crimes under IC 35-42-3.5.
- 32 (9) Escape as a Class B felony or Class C felony (~~IC 35-44-3-5~~);
- 33 **(IC 35-44.1-3-4).**
- 34 (10) An offense that relates to a weapon of mass destruction (as
- 35 defined in IC 35-41-1-29.4).
- 36 (11) An attempt or conspiracy to commit an offense described in
- 37 subdivisions (1) through (10).
- 38 (12) An offense under the law of the United States or in another
- 39 state or country that is substantially similar to an offense
- 40 described in subdivisions (1) through (11).

41 SECTION 46. IC 35-34-1-2.4 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.4. (a) If an

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1 indictment, information, pleading, motion, petition, probable cause
2 affidavit, or other document is required to be verified or sworn under
3 oath before it is submitted to the court in a criminal action, the
4 document meets the requirements of the law as a sworn document if the
5 following form or a substantially similar form is used:

6 I swear (affirm), under penalty of perjury as specified by
7 ~~IC 35-44-2-1~~, **IC 35-44.1-2-1**, that the foregoing (the following)
8 representations are true.

9 Signed _____

10 (b) If a document complies with subsection (a), the swearing or
11 affirming need not be done before a notary or other officer empowered
12 to administer oaths.

13 (c) A person who makes a false affirmation or verification under this
14 section may be prosecuted under ~~IC 35-44-2-1~~. **IC 35-44.1-2-1**.

15 SECTION 47. IC 35-34-2-8 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) Upon request by
17 the prosecuting attorney, the court shall grant use immunity to a
18 witness before the grand jury. The court shall instruct the witness by
19 written order or in open court that any evidence the witness gives
20 before the grand jury, or evidence derived from that evidence, may not
21 be used in any criminal prosecution against that witness, unless the
22 evidence is volunteered by the witness or is not responsive to a
23 question by the grand jury or the prosecutor. The court shall then
24 instruct the witness that ~~he~~ **the witness** must answer the questions
25 asked and produce the items requested.

26 (b) A grant of use immunity does not prohibit the use of evidence
27 the witness gives in a prosecution for perjury under ~~IC 35-44-2-1~~.
28 **IC 35-44.1-2-1**.

29 (c) If a witness refuses to give evidence after ~~he~~ **the witness** has
30 been granted use immunity, ~~he~~ **the witness** shall be brought before the
31 court and the court shall proceed as if the witness had refused in open
32 court.

33 SECTION 48. IC 35-37-3-3 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Upon request of
35 the prosecuting attorney, the court shall grant use immunity to a
36 witness. The court shall instruct the witness, by written order or in open
37 court, that any evidence the witness gives, or evidence derived from
38 that evidence, may not be used in any criminal proceeding against that
39 witness, unless the evidence is volunteered by the witness or is not
40 responsive to a question by the prosecuting attorney. The court shall
41 instruct the witness that ~~he~~ **the witness** must answer the questions
42 asked and produce the items requested.



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- 1 (b) A grant of use immunity does not prohibit the use of evidence
- 2 the witness has given in a prosecution for perjury under ~~IC 35-44-2-1~~.
- 3 **IC 35-44.1-2-1.**
- 4 (c) If a witness refuses to give the evidence after ~~he~~ **the witness** has
- 5 been granted use immunity, the court may find ~~him~~ **the witness** in
- 6 contempt.
- 7 SECTION 49. IC 35-38-1-7.1, AS AMENDED BY P.L.119-2008,
- 8 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 JULY 1, 2012]: Sec. 7.1. (a) In determining what sentence to impose
- 10 for a crime, the court may consider the following aggravating
- 11 circumstances:
- 12 (1) The harm, injury, loss, or damage suffered by the victim of an
- 13 offense was:
- 14 (A) significant; and
- 15 (B) greater than the elements necessary to prove the
- 16 commission of the offense.
- 17 (2) The person has a history of criminal or delinquent behavior.
- 18 (3) The victim of the offense was less than twelve (12) years of
- 19 age or at least sixty-five (65) years of age at the time the person
- 20 committed the offense.
- 21 (4) The person:
- 22 (A) committed a crime of violence (IC 35-50-1-2); and
- 23 (B) knowingly committed the offense in the presence or within
- 24 hearing of an individual who:
- 25 (i) was less than eighteen (18) years of age at the time the
- 26 person committed the offense; and
- 27 (ii) is not the victim of the offense.
- 28 (5) The person violated a protective order issued against the
- 29 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
- 30 IC 34-4-5.1 before their repeal), a workplace violence restraining
- 31 order issued against the person under IC 34-26-6, or a no contact
- 32 order issued against the person.
- 33 (6) The person has recently violated the conditions of any
- 34 probation, parole, pardon, community corrections placement, or
- 35 pretrial release granted to the person.
- 36 (7) The victim of the offense was:
- 37 (A) a person with a disability (as defined in IC 27-7-6-12), and
- 38 the defendant knew or should have known that the victim was
- 39 a person with a disability; or
- 40 (B) mentally or physically infirm.
- 41 (8) The person was in a position having care, custody, or control
- 42 of the victim of the offense.

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- 1 (9) The injury to or death of the victim of the offense was the
 2 result of shaken baby syndrome (as defined in IC 16-41-40-2).
 3 (10) The person threatened to harm the victim of the offense or a
 4 witness if the victim or witness told anyone about the offense.
 5 (11) The person:
 6 (A) committed trafficking with an inmate under ~~IC 35-44-3-9;~~
 7 **IC 35-44.1-3-5;** and
 8 (B) is an employee of the penal facility.
 9 (b) The court may consider the following factors as mitigating
 10 circumstances or as favoring suspending the sentence and imposing
 11 probation:
 12 (1) The crime neither caused nor threatened serious harm to
 13 persons or property, or the person did not contemplate that it
 14 would do so.
 15 (2) The crime was the result of circumstances unlikely to recur.
 16 (3) The victim of the crime induced or facilitated the offense.
 17 (4) There are substantial grounds tending to excuse or justify the
 18 crime, though failing to establish a defense.
 19 (5) The person acted under strong provocation.
 20 (6) The person has no history of delinquency or criminal activity,
 21 or the person has led a law-abiding life for a substantial period
 22 before commission of the crime.
 23 (7) The person is likely to respond affirmatively to probation or
 24 short term imprisonment.
 25 (8) The character and attitudes of the person indicate that the
 26 person is unlikely to commit another crime.
 27 (9) The person has made or will make restitution to the victim of
 28 the crime for the injury, damage, or loss sustained.
 29 (10) Imprisonment of the person will result in undue hardship to
 30 the person or the dependents of the person.
 31 (11) The person was convicted of a crime involving the use of
 32 force against a person who had repeatedly inflicted physical or
 33 sexual abuse upon the convicted person and evidence shows that
 34 the convicted person suffered from the effects of battery as a
 35 result of the past course of conduct of the individual who is the
 36 victim of the crime for which the person was convicted.
 37 (c) The criteria listed in subsections (a) and (b) do not limit the
 38 matters that the court may consider in determining the sentence.
 39 (d) A court may impose any sentence that is:
 40 (1) authorized by statute; and
 41 (2) permissible under the Constitution of the State of Indiana;
 42 regardless of the presence or absence of aggravating circumstances or

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1 mitigating circumstances.
2 SECTION 50. IC 35-38-2.5-4.7, AS AMENDED BY P.L.31-2005,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 4.7. As used in this chapter, "violent offender"
5 means a person who is:

- 6 (1) convicted of an offense or attempted offense under
- 7 IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1,
- 8 ~~IC 35-44-3-5~~, **IC 35-44.1-3-4**, IC 35-45-10-5, IC 35-47-5-1
- 9 (repealed), or IC 35-47.5-5;
- 10 (2) charged with an offense or attempted offense listed in
- 11 IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-42-4,
- 12 IC 35-43-1-1, ~~IC 35-44-3-5~~, **IC 35-44.1-3-4**, IC 35-45-10-5,
- 13 IC 35-46-1-3, IC 35-47-5-1 (repealed), or IC 35-47.5-5; or
- 14 (3) a security risk as determined under section 10 of this chapter.

15 SECTION 51. IC 35-38-2.5-6, AS AMENDED BY P.L.1-2007,
16 SECTION 228, IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2012]: Sec. 6. An order for home detention of
18 an offender under section 5 of this chapter must include the following:

- 19 (1) A requirement that the offender be confined to the offender's
- 20 home at all times except when the offender is:
 - 21 (A) working at employment approved by the court or traveling
 - 22 to or from approved employment;
 - 23 (B) unemployed and seeking employment approved for the
 - 24 offender by the court;
 - 25 (C) undergoing medical, psychiatric, mental health treatment,
 - 26 counseling, or other treatment programs approved for the
 - 27 offender by the court;
 - 28 (D) attending an educational institution or a program approved
 - 29 for the offender by the court;
 - 30 (E) attending a regularly scheduled religious service at a place
 - 31 of worship; or
 - 32 (F) participating in a community work release or community
 - 33 restitution or service program approved for the offender by the
 - 34 court.
- 35 (2) Notice to the offender that violation of the order for home
- 36 detention may subject the offender to prosecution for the crime of
- 37 escape under ~~IC 35-44-3-5~~. **IC 35-44.1-3-4**.
- 38 (3) A requirement that the offender abide by a schedule prepared
- 39 by the probation department, or by a community corrections
- 40 program ordered to provide supervision of the offender's home
- 41 detention, specifically setting forth the times when the offender
- 42 may be absent from the offender's home and the locations the

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- 1 offender is allowed to be during the scheduled absences.
- 2 (4) A requirement that the offender is not to commit another
- 3 crime during the period of home detention ordered by the court.
- 4 (5) A requirement that the offender obtain approval from the
- 5 probation department or from a community corrections program
- 6 ordered to provide supervision of the offender's home detention
- 7 before the offender changes residence or the schedule described
- 8 in subdivision (3).
- 9 (6) A requirement that the offender maintain:
- 10 (A) a working telephone in the offender's home; and
- 11 (B) if ordered by the court, a monitoring device in the
- 12 offender's home or on the offender's person, or both.
- 13 (7) A requirement that the offender pay a home detention fee set
- 14 by the court in addition to the probation user's fee required under
- 15 IC 35-38-2-1 or IC 31-40. However, the fee set under this
- 16 subdivision may not exceed the maximum fee specified by the
- 17 department of correction under IC 11-12-2-12.
- 18 (8) A requirement that the offender abide by other conditions of
- 19 probation set by the court under IC 35-38-2-2.3.
- 20 (9) A requirement that an offender:
- 21 (A) who is convicted of an offense described in IC 10-13-6-10;
- 22 (B) who has not previously provided a DNA sample in
- 23 accordance with IC 10-13-6; and
- 24 (C) whose sentence does not involve a commitment to the
- 25 department of correction;
- 26 provide a DNA sample.
- 27 SECTION 52. IC 35-44 IS REPEALED [EFFECTIVE JULY 1,
- 28 2012]. (Offenses Against Public Administration).
- 29 SECTION 53. IC 35-44.1 IS ADDED TO THE INDIANA CODE
- 30 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
- 31 1, 2012]:
- 32 **ARTICLE 44.1. OFFENSES AGAINST GENERAL PUBLIC**
- 33 **ADMINISTRATION**
- 34 **Chapter 1. General Public Administration**
- 35 **Sec. 1. A public servant who knowingly or intentionally:**
- 36 **(1) commits an offense in the performance of the public**
- 37 **servant's official duties;**
- 38 **(2) solicits, accepts, or agrees to accept from an appointee or**
- 39 **employee any property other than what the public servant is**
- 40 **authorized by law to accept as a condition of continued**
- 41 **employment;**
- 42 **(3) acquires or divests himself or herself of a pecuniary**

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1 interest in any property, transaction, or enterprise or aids
 2 another person to do so based on information obtained by
 3 virtue of the public servant's office that official action that has
 4 not been made public is contemplated; or
 5 (4) fails to deliver public records and property in the public
 6 servant's custody to the public servant's successor in office
 7 when that successor qualifies;
 8 commits official misconduct, a Class D felony.

9 **Sec. 2. (a) A person who:**

10 (1) confers, offers, or agrees to confer on a public servant,
 11 either before or after the public servant becomes appointed,
 12 elected, or qualified, any property, except property the public
 13 servant is authorized by law to accept, with intent to control
 14 the performance of an act related to the employment or
 15 function of the public servant or because of any official act
 16 performed or to be performed by the public servant, former
 17 public servant, or person selected to be a public servant;

18 (2) being a public servant, solicits, accepts, or agrees to accept,
 19 either before or after the person becomes appointed, elected,
 20 or qualified, any property, except property the person is
 21 authorized by law to accept, with intent to control the
 22 performance of an act related to the person's employment or
 23 function as a public servant;

24 (3) confers, offers, or agrees to confer on a person any
 25 property, except property the person is authorized by law to
 26 accept, with intent to cause that person to control the
 27 performance of an act related to the employment or function
 28 of a public servant;

29 (4) solicits, accepts, or agrees to accept any property, except
 30 property the person is authorized by law to accept, with intent
 31 to control the performance of an act related to the
 32 employment or function of a public servant;

33 (5) confers, offers, or agrees to confer any property on a
 34 person participating or officiating in, or connected with, an
 35 athletic contest, sporting event, or exhibition, with intent that
 36 the person will fail to use the person's best efforts in
 37 connection with that contest, event, or exhibition;

38 (6) being a person participating in, officiating in, or connected
 39 with an athletic contest, sporting event, or exhibition, solicits,
 40 accepts, or agrees to accept any property with intent that the
 41 person will fail to use the person's best efforts in connection
 42 with that contest, event, or exhibition;

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- 1 (7) being a witness or informant in an official proceeding or
- 2 investigation, solicits, accepts, or agrees to accept any
- 3 property, with intent to:
- 4 (A) withhold any testimony, information, document, or
- 5 thing;
- 6 (B) avoid legal process summoning the person to testify or
- 7 supply evidence; or
- 8 (C) absent the person from the proceeding or investigation
- 9 to which the person has been legally summoned;
- 10 (8) confers, offers, or agrees to confer any property on a
- 11 witness or informant in an official proceeding or
- 12 investigation, with intent that the witness or informant:
- 13 (A) withhold any testimony, information, document, or
- 14 thing;
- 15 (B) avoid legal process summoning the witness or
- 16 informant to testify or supply evidence; or
- 17 (C) absent himself or herself from any proceeding or
- 18 investigation to which the witness or informant has been
- 19 legally summoned; or
- 20 (9) confers or offers or agrees to confer any property on an
- 21 individual for:
- 22 (A) casting a ballot or refraining from casting a ballot; or
- 23 (B) voting for a political party, for a candidate, or for or
- 24 against a public question;
- 25 in an election described in IC 3-5-1-2 or at a convention of a
- 26 political party authorized under IC 3;
- 27 commits bribery, a Class C felony.
- 28 (b) It is not a defense that the person whom the accused person
- 29 sought to control was not qualified to act in the desired way.
- 30 Sec. 3. (a) A public servant who knowingly or intentionally:
- 31 (1) hires an employee for the governmental entity that the
- 32 public servant serves; and
- 33 (2) fails to assign to the employee any duties, or assigns to the
- 34 employee any duties not related to the operation of the
- 35 governmental entity;
- 36 commits ghost employment, a Class D felony.
- 37 (b) A public servant who knowingly or intentionally assigns to
- 38 an employee under the public servant's supervision any duties not
- 39 related to the operation of the governmental entity that the public
- 40 servant serves commits ghost employment, a Class D felony.
- 41 (c) A person employed by a governmental entity who, knowing
- 42 that the person has not been assigned any duties to perform for the

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1 entity, accepts property from the entity commits ghost
2 employment, a Class D felony.

3 (d) A person employed by a governmental entity who knowingly
4 or intentionally accepts property from the entity for the
5 performance of duties not related to the operation of the entity
6 commits ghost employment, a Class D felony.

7 (e) Any person who accepts property from a governmental
8 entity in violation of this section and any public servant who
9 permits the payment of property in violation of this section are
10 jointly and severally liable to the governmental entity for that
11 property. The attorney general may bring a civil action to recover
12 that property in the county where the governmental entity is
13 located or the person or public servant resides.

14 (f) For the purposes of this section, an employee of a
15 governmental entity who voluntarily performs services:

16 (1) that do not:

17 (A) promote religion;

18 (B) attempt to influence legislation or governmental policy;

19 or

20 (C) attempt to influence elections to public office;

21 (2) for the benefit of:

22 (A) another governmental entity; or

23 (B) an organization that is exempt from federal income
24 taxation under Section 501(c)(3) of the Internal Revenue
25 Code;

26 (3) with the approval of the employee's supervisor; and

27 (4) in compliance with a policy or regulation that:

28 (A) is in writing;

29 (B) is issued by the executive officer of the governmental
30 entity; and

31 (C) contains a limitation on the total time during any
32 calendar year that the employee may spend performing the
33 services during normal hours of employment;

34 is considered to be performing duties related to the operation of the
35 governmental entity.

36 Sec. 4. (a) The following definitions apply throughout this
37 section:

38 (1) "Dependent" means any of the following:

39 (A) The spouse of a public servant.

40 (B) A child, stepchild, or adoptee (as defined in
41 IC 31-9-2-2) of a public servant who is:

42 (i) unemancipated; and

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- (ii) less than eighteen (18) years of age.
- (C) An individual more than one-half (1/2) of whose support is provided during a year by the public servant.
- (2) "Governmental entity served by the public servant" means the immediate governmental entity being served by a public servant.
- (3) "Pecuniary interest" means an interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of:
 - (A) the public servant; or
 - (B) a dependent of the public servant who:
 - (i) is under the direct or indirect administrative control of the public servant; or
 - (ii) receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant.
- (b) A public servant who knowingly or intentionally:
 - (1) has a pecuniary interest in; or
 - (2) derives a profit from;
 - a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony.
- (c) It is not an offense under this section if any of the following apply:
 - (1) The public servant or the public servant's dependent receives compensation through salary or an employment contract for:
 - (A) services provided as a public servant; or
 - (B) expenses incurred by the public servant as provided by law.
 - (2) The public servant's interest in the contract or purchase and all other contracts and purchases made by the governmental entity during the twelve (12) months before the date of the contract or purchase was two hundred fifty dollars (\$250) or less.
 - (3) The contract or purchase involves utility services from a utility whose rate structure is regulated by the state or federal government.
 - (4) The public servant:
 - (A) acts in only an advisory capacity for a state supported college or university; and

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- 1 **(B) does not have authority to act on behalf of the college**
- 2 **or university in a matter involving a contract or purchase.**
- 3 **(5) A public servant under the jurisdiction of the state ethics**
- 4 **commission (as provided in IC 4-2-6-2.5) obtains from the**
- 5 **state ethics commission, following full and truthful disclosure,**
- 6 **written approval that the public servant will not or does not**
- 7 **have a conflict of interest in connection with the contract or**
- 8 **purchase under IC 4-2-6 and this section. The approval**
- 9 **required under this subdivision must be:**
- 10 **(A) granted to the public servant before action is taken in**
- 11 **connection with the contract or purchase by the**
- 12 **governmental entity served; or**
- 13 **(B) sought by the public servant as soon as possible after**
- 14 **the contract is executed or the purchase is made and the**
- 15 **public servant becomes aware of the facts that give rise to**
- 16 **a question of conflict of interest.**
- 17 **(6) A public servant makes a disclosure that meets the**
- 18 **requirements of subsection (d) or (e) and is:**
- 19 **(A) not a member or on the staff of the governing body**
- 20 **empowered to contract or purchase on behalf of the**
- 21 **governmental entity, and functions and performs duties for**
- 22 **the governmental entity unrelated to the contract or**
- 23 **purchase;**
- 24 **(B) appointed by an elected public servant;**
- 25 **(C) employed by the governing body of a school**
- 26 **corporation and the contract or purchase involves the**
- 27 **employment of a dependent or the payment of fees to a**
- 28 **dependent;**
- 29 **(D) elected; or**
- 30 **(E) a member of, or a person appointed by, the board of**
- 31 **trustees of a state supported college or university.**
- 32 **(7) The public servant is a member of the governing board of**
- 33 **a hospital organized or operated under IC 16-22-1 through**
- 34 **IC 16-22-5 or IC 16-23-1.**
- 35 **(d) A disclosure must:**
- 36 **(1) be in writing;**
- 37 **(2) describe the contract or purchase to be made by the**
- 38 **governmental entity;**
- 39 **(3) describe the pecuniary interest that the public servant has**
- 40 **in the contract or purchase;**
- 41 **(4) be affirmed under penalty of perjury;**
- 42 **(5) be submitted to the governmental entity and be accepted**

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1 by the governmental entity in a public meeting of the
 2 governmental entity before final action on the contract or
 3 purchase;
 4 (6) be filed within fifteen (15) days after final action on the
 5 contract or purchase with:
 6 (A) the state board of accounts; and
 7 (B) if the governmental entity is a governmental entity
 8 other than the state or a state supported college or
 9 university, the clerk of the circuit court in the county
 10 where the governmental entity takes final action on the
 11 contract or purchase; and
 12 (7) contain, if the public servant is appointed, the written
 13 approval of the elected public servant (if any) or the board of
 14 trustees of a state supported college or university (if any) that
 15 appointed the public servant.
 16 (e) This subsection applies only to a person who is a member of,
 17 or a person appointed by, the board of trustees of a state supported
 18 college or university. A person to whom this subsection applies
 19 complies with the disclosure requirements of this chapter with
 20 respect to the person's pecuniary interest in a particular type of
 21 contract or purchase which is made on a regular basis from a
 22 particular vendor if the individual files with the state board of
 23 accounts and the board of trustees a statement of pecuniary
 24 interest in that particular type of contract or purchase made with
 25 that particular vendor. The statement required by this subsection
 26 must be made on an annual basis.
 27 Sec. 5. (a) As used in this section, "pecuniary interest" has the
 28 meaning set forth in section 4(a)(3) of this chapter.
 29 (b) A person who knowingly or intentionally:
 30 (1) obtains a pecuniary interest in a contract or purchase with
 31 an agency within one (1) year after separation from
 32 employment or other service with the agency; and
 33 (2) is not a public servant for the agency but who as a public
 34 servant approved, negotiated, or prepared on behalf of the
 35 agency the terms or specifications of:
 36 (A) the contract; or
 37 (B) the purchase;
 38 commits profiteering from public service, a Class D felony.
 39 (c) This section does not apply to negotiations or other activities
 40 related to an economic development grant, loan, or loan guarantee.
 41 (d) This section does not apply if the person receives less than
 42 two hundred fifty dollars (\$250) of the profits from the contract or

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purchase.
(e) It is a defense to a prosecution under this section that:
(1) the person was screened from any participation in the contract or purchase;
(2) the person has not received a part of the profits of the contract or purchase; and
(3) notice was promptly given to the agency of the person's interest in the contract or purchase.

Chapter 2. Interference with General Government Operations

Sec. 1. (a) A person who:

- (1) makes a false, material statement under oath or affirmation, knowing the statement to be false or not believing it to be true; or**
- (2) has knowingly made two (2) or more material statements, in a proceeding before a court or grand jury, which are inconsistent to the degree that one (1) of them is necessarily false;**

commits perjury, a Class D felony.

(b) In a prosecution under subsection (a)(2) of this section:

- (1) the indictment or information need not specify which statement is actually false; and**
- (2) the falsity of a statement may be established sufficiently for conviction by proof that the defendant made irreconcilably contradictory statements which are material to the point in question.**

Sec. 2. (a) A person who:

- (1) knowingly or intentionally induces, by threat, coercion, or false statement, a witness or informant in an official proceeding or investigation to:**
 - (A) withhold or unreasonably delay in producing any testimony, information, document, or thing;**
 - (B) avoid legal process summoning the person to testify or supply evidence; or**
 - (C) absent the person from a proceeding or investigation to which the person has been legally summoned;**
- (2) knowingly or intentionally in an official criminal proceeding or investigation:**
 - (A) withholds or unreasonably delays in producing any testimony, information, document, or thing after a court orders the person to produce the testimony, information, document, or thing;**
 - (B) avoids legal process summoning the person to testify or**

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1 supply evidence; or
2 (C) absents the person from a proceeding or investigation
3 to which the person has been legally summoned;
4 (3) alters, damages, or removes any record, document, or
5 thing, with intent to prevent it from being produced or used
6 as evidence in any official proceeding or investigation;
7 (4) makes, presents, or uses a false record, document, or thing
8 with intent that the record, document, or thing, material to
9 the point in question, appear in evidence in an official
10 proceeding or investigation to mislead a public servant; or
11 (5) communicates, directly or indirectly, with a juror
12 otherwise than as authorized by law, with intent to influence
13 the juror regarding any matter that is or may be brought
14 before the juror;
15 commits obstruction of justice, a Class D felony.
16 (b) Subsection (a)(2)(A) does not apply to:
17 (1) a person who qualifies for a special privilege under
18 IC 34-46-4 with respect to the testimony, information,
19 document, or thing; or
20 (2) a person who, as:
21 (A) an attorney;
22 (B) a physician;
23 (C) a member of the clergy; or
24 (D) a husband or wife;
25 is not required to testify under IC 34-46-3-1.
26 Sec. 3. (a) As used in this section, "consumer product" has the
27 meaning set forth in IC 35-45-8-1.
28 (b) As used in this section, "misconduct" means a violation of a
29 departmental rule or procedure of a law enforcement agency.
30 (c) A person who reports, by telephone, telegraph, mail, or other
31 written or oral communication, that:
32 (1) the person or another person has placed or intends to
33 place an explosive, a destructive device, or other destructive
34 substance in a building or transportation facility;
35 (2) there has been or there will be tampering with a consumer
36 product introduced into commerce; or
37 (3) there has been or will be placed or introduced a weapon of
38 mass destruction in a building or a place of assembly;
39 knowing the report to be false, commits false reporting, a Class D
40 felony.
41 (d) A person who:
42 (1) gives a false report of the commission of a crime or gives

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1 false information in the official investigation of the
 2 commission of a crime, knowing the report or information to
 3 be false;

4 (2) gives a false alarm of fire to the fire department of a
 5 governmental entity, knowing the alarm to be false;

6 (3) makes a false request for ambulance service to an
 7 ambulance service provider, knowing the request to be false;

8 (4) gives a false report concerning a missing child (as defined
 9 in IC 10-13-5-4) or missing endangered adult (as defined in
 10 IC 12-7-2-131.3) or gives false information in the official
 11 investigation of a missing child or missing endangered adult
 12 knowing the report or information to be false;

13 (5) makes a complaint against a law enforcement officer to the
 14 state or municipality (as defined in IC 8-1-13-3(b)) that
 15 employs the officer:

16 (A) alleging the officer engaged in misconduct while
 17 performing the officer's duties; and

18 (B) knowing the complaint to be false; or

19 (6) makes a false report of a missing person, knowing the
 20 report or information is false;

21 commits false informing, a Class B misdemeanor. However, the
 22 offense is a Class A misdemeanor if it substantially hinders any law
 23 enforcement process or if it results in harm to an innocent person.

24 Sec. 4. (a) A person who:

25 (1) with intent to mislead public servants;

26 (2) in a five (5) year period; and

27 (3) in one (1) or more official proceedings or investigations;

28 has knowingly made at least two (2) material statements
 29 concerning the person's identity that are inconsistent to the degree
 30 that one (1) of them is necessarily false commits false identity
 31 statement, a Class A misdemeanor.

32 (b) It is a defense to a prosecution under this section that the
 33 material statements that are the basis of a prosecution under
 34 subsection (a) concerning the person's identity are accurate or
 35 were accurate in the past.

36 (c) In a prosecution under subsection (a):

37 (1) the indictment or information need not specify which
 38 statement is actually false; and

39 (2) the falsity of a statement may be established sufficiently
 40 for conviction by proof that the defendant made
 41 irreconcilably contradictory statements concerning the
 42 person's identity.

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1 **Sec. 5. (a) A person not standing in the relation of parent, child,**
 2 **or spouse to another person who has committed a crime or is a**
 3 **fugitive from justice who, with intent to hinder the apprehension**
 4 **or punishment of the other person, harbors, conceals, or otherwise**
 5 **assists the person commits assisting a criminal, a Class A**
 6 **misdemeanor. However, the offense is:**

7 (1) a Class D felony, if the person assisted has committed a
 8 Class B, Class C, or Class D felony; and

9 (2) a Class C felony, if the person assisted has committed
 10 murder or a Class A felony, or if the assistance was providing
 11 a deadly weapon.

12 **(b) It is not a defense to a prosecution under this section that the**
 13 **person assisted:**

14 (1) has not been prosecuted for the offense;

15 (2) has not been convicted of the offense; or

16 (3) has been acquitted of the offense by reason of insanity.

17 **However, the acquittal of the person assisted for other reasons may**
 18 **be a defense.**

19 **Sec. 6. A person who falsely represents that the person is a**
 20 **public servant, with intent to mislead and induce another person**
 21 **to submit to false official authority or otherwise to act to the other**
 22 **person's detriment in reliance on the false representation, commits**
 23 **impersonation of a public servant, a Class A misdemeanor.**
 24 **However, a person who falsely represents that the person is:**

25 (1) a law enforcement officer; or

26 (2) an agent or employee of the department of state revenue,
 27 and collects any property from another person;

28 **commits a Class D felony.**

29 **Sec. 7. (a) A person who knowingly or intentionally:**

30 (1) possesses a police radio;

31 (2) transmits over a frequency assigned for police emergency
 32 purposes; or

33 (3) possesses or uses a police radio:

34 (A) while committing a crime;

35 (B) to further the commission of a crime; or

36 (C) to avoid detection by a law enforcement agency;

37 **commits unlawful use of a police radio, a Class B misdemeanor.**

38 **(b) Subsection (a)(1) and (a)(2) do not apply to:**

39 (1) a governmental entity;

40 (2) a regularly employed law enforcement officer;

41 (3) a common carrier of persons for hire whose vehicles are
 42 used in emergency service;

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- 1 (4) a public service or utility company whose vehicles are used
 2 in emergency service;
 3 (5) a person who has written permission from the chief
 4 executive officer of a law enforcement agency to possess a
 5 police radio;
 6 (6) a person who holds an amateur radio license issued by the
 7 Federal Communications Commission if the person is not
 8 transmitting over a frequency assigned for police emergency
 9 purposes;
 10 (7) a person who uses a police radio only in the person's
 11 dwelling or place of business;
 12 (8) a person:
 13 (A) who is regularly engaged in newsgathering activities;
 14 (B) who is employed by a newspaper qualified to receive
 15 legal advertisements under IC 5-3-1, a wire service, or a
 16 licensed commercial or public radio or television station;
 17 and
 18 (C) whose name is furnished by the person's employer to
 19 the chief executive officer of a law enforcement agency in
 20 the county in which the employer's principal office is
 21 located;
 22 (9) a person engaged in the business of manufacturing or
 23 selling police radios; or
 24 (10) a person who possesses or uses a police radio during the
 25 normal course of the person's lawful business.
 26 (c) As used in this section, "police radio" means a radio that is
 27 capable of sending or receiving signals transmitted on frequencies
 28 assigned by the Federal Communications Commission for police
 29 emergency purposes and that:
 30 (1) can be installed, maintained, or operated in a vehicle; or
 31 (2) can be operated while it is being carried by an individual.
 32 The term does not include a radio designed for use only in a
 33 dwelling.
 34 Sec. 8. (a) A person who knowingly or intentionally
 35 manufactures and sells or manufactures and offers for sale:
 36 (1) an official badge or a replica of an official badge that is
 37 currently used by a law enforcement agency or fire
 38 department of the state or of a political subdivision of the
 39 state; or
 40 (2) a document that purports to be an official employment
 41 identification that is used by a law enforcement agency or fire
 42 department of the state or of a political subdivision of the

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1 state;
 2 without the written permission of the chief executive officer of the
 3 law enforcement agency commits unlawful manufacture or sale of
 4 a police or fire insignia, a Class A misdemeanor.

5 (b) However, the offense described in subsection (a) is:

6 (1) a Class D felony if the person commits the offense with the
 7 knowledge or intent that the badge or employment
 8 identification will be used to further the commission of an
 9 offense under IC 35-44-2-3; and

10 (2) a Class B felony if the person commits the offense with the
 11 knowledge or intent that the badge or employment
 12 identification will be used to further the commission of an
 13 offense under IC 35-47-12.

14 (c) It is a defense to a prosecution under subsection (a)(1) if the
 15 area of the badge or replica that is manufactured and sold or
 16 manufactured and offered for sale as measured by multiplying the
 17 greatest length of the badge by the greatest width of the badge is:

18 (1) less than fifty percent (50%); or

19 (2) more than one hundred fifty percent (150%);

20 of the area of an official badge that is used by a law enforcement
 21 agency or fire department of the state or a political subdivision of
 22 the state as measured by multiplying the greatest length of the
 23 official badge by the greatest width of the official badge.

24 Sec. 9. (a) A person who, having been released from lawful
 25 detention on condition that the person appear at a specified time
 26 and place in connection with a charge of a crime, intentionally fails
 27 to appear at that time and place commits failure to appear, a Class
 28 A misdemeanor. However, the offense is a Class D felony if the
 29 charge was a felony charge.

30 (b) It is no defense that the accused person was not convicted of
 31 the crime with which the person was originally charged.

32 (c) This section does not apply to obligations to appear incident
 33 to release under suspended sentence or on probation or parole.

34 Sec. 10. (a) A person who, having been issued:

35 (1) a complaint and summons in connection with an infraction
 36 or ordinance violation; or

37 (2) a summons, or summons and promise to appear, in
 38 connection with a misdemeanor violation;

39 notifying the person to appear at a specific time and place,
 40 intentionally fails to appear at the specified time and place commits
 41 failure to respond to a summons, a Class C misdemeanor.

42 (b) It is no defense that judgment was entered in favor of the

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1 person in the infraction or ordinance proceeding or that the person
 2 was acquitted of the misdemeanor for which the person was
 3 summoned to appear.

4 Sec. 11. A person who knowingly or intentionally:

- 5 (1) dismisses an employee;
 6 (2) deprives an employee of employment benefits; or
 7 (3) threatens such a dismissal or deprivation;

8 because the employee has received or responded to a summons,
 9 served as a juror, or attended court for prospective jury service
 10 commits interference with jury service, a Class B misdemeanor.

11 Sec. 12. A person who knowingly or intentionally:

- 12 (1) dismisses an employee;
 13 (2) deprives an employee of employment benefits; or
 14 (3) threatens such a dismissal or deprivation;

15 because the employee has received or responded to a subpoena in
 16 a criminal proceeding commits interference with witness service,
 17 a Class B misdemeanor.

18 Chapter 3. Detention

19 Sec. 1. (a) A person who knowingly or intentionally:

- 20 (1) forcibly resists, obstructs, or interferes with a law
 21 enforcement officer or a person assisting the officer while the
 22 officer is lawfully engaged in the execution of the officer's
 23 duties;
 24 (2) forcibly resists, obstructs, or interferes with the authorized
 25 service or execution of a civil or criminal process or order of
 26 a court; or
 27 (3) flees from a law enforcement officer after the officer has,
 28 by visible or audible means, including operation of the law
 29 enforcement officer's siren or emergency lights, identified
 30 himself or herself and ordered the person to stop;

31 commits resisting law enforcement, a Class A misdemeanor, except
 32 as provided in subsection (b).

33 (b) The offense under subsection (a) is a:

34 (1) Class D felony if:

- 35 (A) the offense is described in subsection (a)(3) and the
 36 person uses a vehicle to commit the offense; or
 37 (B) while committing any offense described in subsection
 38 (a), the person draws or uses a deadly weapon, inflicts
 39 bodily injury on or otherwise causes bodily injury to
 40 another person, or operates a vehicle in a manner that
 41 creates a substantial risk of bodily injury to another
 42 person;

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1 (2) Class C felony if, while committing any offense described
 2 in subsection (a), the person operates a vehicle in a manner
 3 that causes serious bodily injury to another person;

4 (3) Class B felony if, while committing any offense described
 5 in subsection (a), the person operates a vehicle in a manner
 6 that causes the death of another person; and

7 (4) Class A felony if, while committing any offense described
 8 in subsection (a), the person operates a vehicle in a manner
 9 that causes the death of a law enforcement officer while the
 10 law enforcement officer is engaged in the officer's official
 11 duties.

12 (c) For purposes of this section, a law enforcement officer
 13 includes an enforcement officer of the alcohol and tobacco
 14 commission and a conservation officer of the department of
 15 natural resources.

16 (d) If a person uses a vehicle to commit a felony offense under
 17 subsection (b)(1)(B), (b)(2), (b)(3), or (b)(4), as part of the criminal
 18 penalty imposed for the offense, the court shall impose a minimum
 19 executed sentence of at least:

20 (1) thirty (30) days, if the person does not have a prior
 21 unrelated conviction under this section;

22 (2) one hundred eighty (180) days, if the person has one (1)
 23 prior unrelated conviction under this section; or

24 (3) one (1) year, if the person has two (2) or more prior
 25 unrelated convictions under this section.

26 (e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the
 27 mandatory minimum sentence imposed under subsection (d) may
 28 not be suspended.

29 (f) If a person is convicted of an offense involving the use of a
 30 motor vehicle under:

31 (1) subsection (b)(1)(A), if the person exceeded the speed limit
 32 by at least twenty (20) miles per hour while committing the
 33 offense;

34 (2) subsection (b)(2); or

35 (3) subsection (b)(3);

36 the court may notify the bureau of motor vehicles to suspend or
 37 revoke the person's driver's license and all certificates of
 38 registration and license plates issued or registered in the person's
 39 name in accordance with IC 9-30-4-6(b)(3) for the period described
 40 in IC 9-30-4-6(d)(4) or IC 9-30-4-6(d)(5). The court shall inform
 41 the bureau whether the person has been sentenced to a term of
 42 incarceration. At the time of conviction, the court may obtain the



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1 person's current driver's license and return the license to the
2 bureau of motor vehicles.

3 Sec. 2. (a) As used in this section, "officer" includes the
4 following:

5 (1) A person employed by:

6 (A) the department of correction;

7 (B) a law enforcement agency;

8 (C) a probation department;

9 (D) a county jail; or

10 (E) a circuit, superior, county, probate, city, or town court;
11 who is required to carry a firearm in performance of the
12 person's official duties.

13 (2) A law enforcement officer.

14 (b) A person who:

15 (1) knows that another person is an officer; and

16 (2) knowingly or intentionally takes or attempts to take a
17 firearm (as defined in IC 35-47-1-5) or weapon that the officer
18 is authorized to carry from the officer or from the immediate
19 proximity of the officer:

20 (A) without the consent of the officer; and

21 (B) while the officer is engaged in the performance of the
22 officer's official duties;

23 commits disarming a law enforcement officer, a Class C felony.
24 However, the offense is a Class B felony if it results in serious
25 bodily injury to the officer, and the offense is a Class A felony if it
26 results in death to the officer or if a firearm (as defined in
27 IC 35-47-1-5) was taken and the offense results in serious bodily
28 injury to the officer.

29 Sec. 3. A person who, when ordered by a law enforcement
30 officer to assist the officer in the execution of the officer's duties,
31 knowingly or intentionally, and without a reasonable cause, refuses
32 to assist commits refusal to aid an officer, a Class B misdemeanor.

33 Sec. 4. (a) A person, except as provided in subsection (b), who
34 intentionally flees from lawful detention commits escape, a Class
35 C felony. However, the offense is a Class B felony if, while
36 committing it, the person draws or uses a deadly weapon or inflicts
37 bodily injury on another person.

38 (b) A person who knowingly or intentionally violates a home
39 detention order or intentionally removes an electronic monitoring
40 device or GPS tracking device commits escape, a Class D felony.

41 (c) A person who knowingly or intentionally fails to return to
42 lawful detention following temporary leave granted for a specified

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1 purpose or limited period commits failure to return to lawful
 2 detention, a Class D felony. However, the offense is a Class C
 3 felony if, while committing it, the person draws or uses a deadly
 4 weapon or inflicts bodily injury on another person.

5 Sec. 5. (a) As used in this section, "juvenile facility" means the
 6 following:

7 (1) A secure facility (as defined in IC 31-9-2-114) in which a
 8 child is detained under IC 31 or used for a child awaiting
 9 adjudication or adjudicated under IC 31 as a child in need of
 10 services or a delinquent child.

11 (2) A shelter care facility (as defined in IC 31-9-2-117) in
 12 which a child is detained under IC 31 or used for a child
 13 awaiting adjudication or adjudicated under IC 31 as a child
 14 in need of services or a delinquent child.

15 (b) Except as provided in subsection (d), a person who, without
 16 the prior authorization of the person in charge of a penal facility
 17 or juvenile facility knowingly or intentionally:

18 (1) delivers, or carries into the penal facility or juvenile
 19 facility with intent to deliver, an article to an inmate or child
 20 of the facility;

21 (2) carries, or receives with intent to carry out of the penal
 22 facility or juvenile facility, an article from an inmate or child
 23 of the facility;

24 (3) delivers, or carries to a worksite with the intent to deliver,
 25 alcoholic beverages to an inmate or child of a jail work crew
 26 or community work crew; or

27 (4) possesses in or carries into a penal facility or a juvenile
 28 facility:

29 (A) a controlled substance; or

30 (B) a deadly weapon;

31 commits trafficking with an inmate, a Class A misdemeanor.

32 (c) If the person who committed the offense under subsection (b)
 33 is an employee of:

34 (1) the department of correction; or

35 (2) a penal facility;

36 and the article is a cigarette or tobacco product (as defined in
 37 IC 6-7-2-5), the court shall impose a mandatory five thousand
 38 dollar (\$5,000) fine under IC 35-50-3-2, in addition to any term of
 39 imprisonment imposed under IC 35-50-3-2.

40 (d) The offense under subsection (b) is a Class C felony if the
 41 article is:

42 (1) a controlled substance;

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1 (2) a deadly weapon; or
2 (3) a cellular telephone or other wireless or cellular
3 communications device.

4 **Sec. 6. (a) As used in this section, "contraband" means the**
5 **following:**

6 (1) Alcohol.
7 (2) A cigarette or tobacco product.
8 (3) A controlled substance.
9 (4) An item that may be used as a weapon.

10 **(b) As used in this section, "inmate outside a facility" means a**
11 **person who is incarcerated in a penal facility or detained in a**
12 **juvenile facility on a full-time basis as the result of a conviction or**
13 **a juvenile adjudication but who has been or is being transported to**
14 **another location to participate in or prepare for a judicial**
15 **proceeding. The term does not include the following:**

16 (1) An adult or juvenile pretrial detainee.
17 (2) A person serving an intermittent term of imprisonment or
18 detention.
19 (3) A person serving a term of imprisonment or detention as:
20 (A) a condition of probation;
21 (B) a condition of a community corrections program;
22 (C) part of a community transition program;
23 (D) part of a reentry court program;
24 (E) part of a work release program; or
25 (F) part of a community based program that is similar to
26 a program described in clauses (A) through (E).
27 (4) A person who has escaped from incarceration or walked
28 away from secure detention.
29 (5) A person on temporary leave (as described in IC 11-10-9)
30 or temporary release (as described in IC 11-10-10).

31 **(c) A person who, with the intent of providing contraband to an**
32 **inmate outside a facility:**

33 (1) delivers contraband to an inmate outside a facility; or
34 (2) places contraband in a location where an inmate outside
35 a facility could obtain the contraband;
36 commits trafficking with an inmate outside a facility, a Class A
37 misdemeanor. However, the offense is a Class D felony if the
38 contraband is an item described in subsection (a)(3), and a Class C
39 felony if the contraband is an item described in subsection (a)(4).

40 **Sec. 7. A person who knowingly or intentionally while**
41 **incarcerated in a penal facility possesses a device, equipment, a**
42 **chemical substance, or other material that:**

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1 (1) is used; or
 2 (2) is intended to be used;
 3 **in a manner that is readily capable of causing bodily injury**
 4 **commits a Class C felony. However, the offense is a Class B felony**
 5 **if the device, equipment, chemical substance, or other material is**
 6 **a deadly weapon.**

7 **Sec. 8. A person who knowingly or intentionally possesses a**
 8 **cellular telephone or other wireless or cellular communications**
 9 **device while incarcerated in a county jail commits a Class A**
 10 **misdemeanor.**

11 **Sec. 9. (a) A person who is being supervised on lifetime parole**
 12 **(as described in IC 35-50-6-1) and who knowingly or intentionally**
 13 **violates a condition of lifetime parole that involves direct or**
 14 **indirect contact with a child less than sixteen (16) years of age or**
 15 **with the victim of a crime that was committed by the person**
 16 **commits a Class D felony if, at the time of the violation:**

17 (1) the person's lifetime parole has been revoked two (2) or
 18 more times; or

19 (2) the person has completed the person's sentence, including
 20 any credit time the person may have earned.

21 **(b) The offense described in subsection (a) is a Class C felony if**
 22 **the person has a prior unrelated conviction under this section.**

23 **Sec. 10. (a) As used in this section, "service provider" means a**
 24 **public servant or other person employed by a governmental entity**
 25 **or another person who provides goods or services to a person who**
 26 **is subject to lawful detention.**

27 **(b) A service provider who knowingly or intentionally engages**
 28 **in sexual intercourse or deviate sexual conduct with a person who**
 29 **is subject to lawful detention commits sexual misconduct, a Class**
 30 **C felony.**

31 **(c) A service provider at least eighteen (18) years of age who**
 32 **knowingly or intentionally engages in sexual intercourse or deviate**
 33 **sexual conduct with a person who is:**

34 (1) less than eighteen (18) years of age; and

35 (2) subject to lawful detention;

36 **commits sexual misconduct, a Class B felony.**

37 **(d) It is not a defense that an act described in subsection (b) or**
 38 **(c) was consensual.**

39 **(e) This section does not apply to sexual intercourse or deviate**
 40 **sexual conduct between spouses.**

41 **Chapter 4. Firefighting and Emergency Services**

42 **Sec. 1. As used in this chapter, "dispatched firefighter" means**

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- 1 a member of:
- 2 (1) the fire company having jurisdiction over an emergency
- 3 incident area; or
- 4 (2) a fire company that has entered into a mutual aid
- 5 agreement with the fire company having jurisdiction over an
- 6 emergency incident area;
- 7 who has been dispatched by the local fire department having
- 8 jurisdiction over the particular emergency incident area.
- 9 Sec. 2. As used in this chapter, "emergency incident area"
- 10 means the area surrounding a structure, vehicle, property, or area
- 11 that is:
- 12 (1) defined by police or firefighters with flags, barricades,
- 13 barrier tape, or other markers; or
- 14 (2) one hundred and fifty (150) feet in all directions from the
- 15 perimeter of the emergency incident;
- 16 whichever is greater.
- 17 Sec. 3. As used in this chapter, "firefighter" has the meaning set
- 18 forth in IC 9-18-34-1.
- 19 Sec. 4. As used in this chapter, "fire protective clothing and fire
- 20 protective gear" includes any of the following items generally used
- 21 by firefighters:
- 22 (1) Outer fire retardant clothing and headgear.
- 23 (2) Fire gloves.
- 24 (3) Self contained breathing apparatus.
- 25 (4) Emergency medical services protective gear.
- 26 (5) Hazardous materials protective gear.
- 27 Sec. 5. A person who is not a firefighter who knowingly or
- 28 intentionally refuses to leave an emergency incident area
- 29 immediately after being requested to do so by a firefighter or law
- 30 enforcement officer commits a Class A misdemeanor.
- 31 Sec. 6. A firefighter who:
- 32 (1) has not been dispatched to an emergency incident area;
- 33 (2) enters an emergency incident area; and
- 34 (3) refuses to leave an emergency incident area immediately
- 35 after being requested to do so by a dispatched firefighter or
- 36 law enforcement officer;
- 37 commits a Class C infraction.
- 38 Sec. 7. A person other than a firefighter who, with intent to
- 39 mislead a firefighter or law enforcement officer as to the person's
- 40 status as a dispatched firefighter, knowingly or intentionally enters
- 41 an emergency incident area while wearing, transporting, or
- 42 otherwise possessing a uniform, fire protective clothing, or fire

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1 protective gear commits a Class A misdemeanor. However, the
 2 offense is a Class D felony if, as a proximate result of the person
 3 entering the emergency incident area, a person or firefighter
 4 suffers bodily injury (as defined in IC 35-41-1-4).

5 Sec. 8. A person who knowingly or intentionally obstructs or
 6 interferes with a firefighter performing or attempting to perform
 7 the firefighter's emergency functions or duties as a firefighter
 8 commits obstructing a firefighter, a Class A misdemeanor.

9 Sec. 9. (a) "Emergency medical person" means a person who
 10 holds a certificate issued by the Indiana emergency medical
 11 services commission to provide emergency medical services.

12 (b) A person who knowingly or intentionally obstructs or
 13 interferes with an emergency medical person performing or
 14 attempting to perform the emergency medical person's emergency
 15 functions or duties commits obstructing an emergency medical
 16 person, a Class B misdemeanor.

17 Chapter 5. Illegal Alien Offenses

18 Sec. 1. This chapter does not apply to the following:

- 19 (1) A church or religious organization conducting an activity
 20 that is protected by the First Amendment to the United States
 21 Constitution.
- 22 (2) The provision of assistance for health care items and
 23 services that are necessary for the treatment of an emergency
 24 medical condition of an individual.
- 25 (3) A health care provider (as defined in IC 16-18-2-163(a))
 26 that is providing health care services.
- 27 (4) An attorney or other person that is providing legal
 28 services.
- 29 (5) A person who:
 30 (A) is a spouse of an alien or who stands in relation of
 31 parent or child to an alien; and
 32 (B) would otherwise commit an offense under this chapter
 33 with respect to the alien.
- 34 (6) A provider that:
 35 (A) receives federal or state funding to provide services to
 36 victims of domestic violence, sexual assault, human
 37 trafficking, or stalking; and
 38 (B) is providing the services described in clause (A).
- 39 (7) An employee of Indiana or a political subdivision (as
 40 defined in IC 36-1-2-13) if the employee is acting within the
 41 scope of the employee's employment.
- 42 (8) An employee of a school acting within the scope of the

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employee's employment.

Sec. 2. As used in this chapter, "alien" has the meaning set forth in 8 U.S.C. 1101(a).

Sec. 3. (a) A person who knowingly or intentionally:

- (1) transports; or
- (2) moves;

an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of the law commits transporting an illegal alien, a Class A misdemeanor.

(b) If a violation under this section involves more than nine (9) aliens, the violation is a Class D felony.

Sec. 4. (a) A person who knowingly or intentionally:

- (1) conceals;
- (2) harbors; or
- (3) shields from detection;

an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law, commits harboring an illegal alien, a Class A misdemeanor.

(b) If a violation under this section involves more than nine (9) aliens, the violation is a Class D felony.

(c) A landlord that rents real property to a person who is an alien does not violate this section as a result of renting the property to the person.

Sec. 5. A person who transports, moves, or cares for a child (as defined in IC 35-47-10-3) who is an alien does not violate this chapter as a result of transporting, moving, or caring for the child.

Sec. 6. A determination by the United States Department of Homeland Security that an alien has come to, entered, or remained in the United States in violation of law is evidence that the alien is in the United States in violation of law.

Sec. 7. A law enforcement officer shall impound a motor vehicle, other than a motor vehicle used in public transportation and owned or operated by the state or a political subdivision, that is used to commit a violation of section 3 or 4 of this chapter.

SECTION 54. IC 35-44.2 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

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ARTICLE 44.2. OFFENSES AGAINST STATE PUBLIC ADMINISTRATION

Chapter 1. Interference with State Government

Sec. 1. (a) As used in this section, "supervisor" has the meaning set forth in IC 4-15-10-1.

(b) As used in this section, "violation" means:

- (1) a violation of a federal law or regulation;**
- (2) a violation of a state law or rule;**
- (3) a violation of an ordinance of a political subdivision (as defined in IC 36-1-2-13); or**
- (4) the misuse of public resources.**

(c) A state supervisor who knowingly or intentionally:

- (1) dismisses from employment;**
- (2) withholds a salary increase or employment related benefit of;**
- (3) transfers or reassigns;**
- (4) denies a promotion that would have been received by; or**
- (5) demotes;**

a state employee in retaliation for the state employee reporting in writing the existence of a violation commits retaliation for reporting a violation, a Class A misdemeanor.

Sec. 2. (a) As used in this section, "state employee" means:

- (1) an employee (as defined in IC 4-2-6-1(a)(8));**
- (2) a special state appointee (as defined in IC 4-2-6-1(a)(16);**
- or**
- (3) a state officer (as defined in IC 4-2-6-1(a)(17)).**

(b) A state employee who knowingly or intentionally retaliates or threatens to retaliate against another state employee or former state employee for:

- (1) filing a complaint with the state ethics commission or the inspector general;**
- (2) providing information to the state ethics commission or the inspector general; or**
- (3) testifying at a state ethics commission proceeding;**

commits retaliation for reporting to the inspector general, a Class A misdemeanor.

(c) It is a defense to a prosecution under this section that the reporting state employee or former state employee:

- (1) did not act in good faith; or**
- (2) knowingly, intentionally, or recklessly provided false information or testimony to the state ethics commission or the inspector general.**

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Sec. 3. A person who:

(1) knowingly or intentionally induces or attempts to induce, by threat, coercion, suggestion, or false statement, a witness or informant in a state ethics commission proceeding or investigation conducted by the inspector general to do any of the following:

(A) Withhold or unreasonably delay the production of any testimony, information, document, or thing.

(B) Avoid legal process summoning the person to testify or supply evidence.

(C) Fail to appear at a proceeding or investigation to which the person has been summoned.

(D) Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in a state ethics commission proceeding or inspector general investigation to mislead a state ethics commissioner or inspector general employee;

(2) alters, damages, or removes a record, document, or thing except as permitted or required by law, with the intent to prevent the record, document, or thing from being produced or used in a state ethics commission proceeding or inspector general investigation; or

(3) makes, presents, or uses a false record, document, or thing with the intent that the record, document, or thing appear in a state ethics commission proceeding or inspector general investigation to mislead a state ethics commissioner or inspector general employee;

commits obstructing the inspector general, a Class A misdemeanor.

Sec. 4. A person who:

(1) intentionally interferes with or prevents the completion of the work of the department of correction ombudsman;

(2) knowingly offers compensation to the department of correction ombudsman in an effort to affect the outcome of an investigation or a potential investigation;

(3) knowingly or intentionally retaliates against an offender or another person who provides information to the department of correction ombudsman; or

(4) makes threats because of an investigation or potential investigation against:

(A) the department of correction ombudsman;

(B) a person who has filed a complaint; or

(C) a person who provides information to the department

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1 of correction ombudsman;
2 commits obstructing the department of correction ombudsman, a
3 Class A misdemeanor.

4 Sec. 5. (a) A person who knowingly or intentionally:

5 (1) interferes with or prevents the completion of the work of
6 a department of child services ombudsman;

7 (2) offers compensation to a department of child services
8 ombudsman in an effort to affect the outcome of an
9 investigation or a potential investigation;

10 (3) retaliates against another person who provides
11 information to a department of child services ombudsman; or

12 (4) threatens a department of child services ombudsman, a
13 person who has filed a complaint, or a person who provides
14 information to a department of child services ombudsman,
15 because of an investigation or potential investigation;

16 commits interference with the department of child services
17 ombudsman, a Class A misdemeanor.

18 (b) It is a defense to a prosecution under subsection (a) if the
19 conduct is the expungement of records held by the department of
20 child services that occurs by statutory mandate, judicial order or
21 decree, administrative review or process, automatic operation of
22 the Indiana Child Welfare Information System (ICWIS) computer
23 system, or in the normal course of business.

24 Sec. 6. A person who interferes with the state examiner is
25 subject to a civil action for an infraction under IC 5-11-1-10.

26 Sec. 7. A person who refuses to follow the state examiner's
27 directives is subject to a civil action for an infraction under
28 IC 5-11-1-21.

29 Sec. 8. A person who fails to provide an annual report to the
30 state examiner is subject to a civil action for an infraction under
31 IC 5-11-13-3.

32 Sec. 9. A state agency's special deputy who makes a false
33 certification of an oath or affirmation is subject to a civil action for
34 an infraction under IC 4-2-4-3.

35 Sec. 10. A person who makes a false or deficient financial
36 disclosure statement is subject to a civil action for an infraction
37 under IC 4-2-6-8.

38 Sec. 11. A person who fails to respond to the attorney general
39 upon a demand of an accounting is subject to a civil action for an
40 infraction under IC 4-6-2-6.

41 Sec. 12. A person who violates commercial driver training
42 school requirements is subject to a civil action for an infraction

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under IC 5-2-6.5-15.

Sec. 13. A person who fails to follow the publication of notices rules is subject to a civil action for an infraction under IC 5-3-1-9.

Sec. 14. A consultant who fails to file a disclosure concerning a public works project is subject to a civil action for an infraction under IC 5-16-11-11.

Chapter 2. Purchasing Offenses

Sec. 1. A public servant (as defined in IC 35-41-1-24) who knowingly or intentionally fails to deposit public funds (as defined in IC 5-13-4-20) not later than one (1) business day following the receipt of the funds, in a depository in the name of the state or political subdivision by the public servant having control of the funds, commits a violation of the depository rule, a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is at least seven hundred fifty dollars (\$750), and a Class C felony if the amount involved is at least fifty thousand dollars (\$50,000).

Sec. 2. A public servant (as defined in IC 35-41-1-24) who receives public funds (as defined in IC 5-13-4-20) and fails to:

- (1) keep a cashbook (as defined in IC 5-13-5-1);
- (2) not later than one (1) business day following the receipt of the funds, enter into the cashbook, by item, all receipts of public funds; or
- (3) balance the cashbook daily to show funds on hand at the close of each day;

commits a violation of the cashbook rule, a Class B misdemeanor.

Sec. 3. (a) This subsection does not apply to the following:

- (1) A state educational institution (as defined in IC 21-7-13-32).
- (2) A municipality (as defined in IC 36-1-2-11).
- (3) A county.
- (4) An airport authority operating in a consolidated city.
- (5) A capital improvements board of managers operating in a consolidated city.
- (6) A board of directors of a public transportation corporation operating in a consolidated city.
- (7) A municipal corporation organized under IC 16-22-8-6.
- (8) A public library.
- (9) A library services authority.
- (10) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.
- (11) A school corporation (as defined in IC 36-1-2-17).

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- 1 (12) A regional water or sewer district organized under
- 2 IC 13-26 or under IC 13-3-2 (before its repeal).
- 3 (13) A municipally owned utility (as defined in IC 8-1-2-1).
- 4 (14) A board of an airport authority under IC 8-22-3.
- 5 (15) A conservancy district.
- 6 (16) A board of aviation commissioners under IC 8-22-2.
- 7 (17) A public transportation corporation under IC 36-9-4.
- 8 (18) A commuter transportation district under IC 8-5-15.
- 9 (19) A solid waste management district established under
- 10 IC 13-21 or IC 13-9.5 (before its repeal).
- 11 (20) A county building authority under IC 36-9-13.
- 12 (21) A soil and water conservation district established under
- 13 IC 14-32.
- 14 (22) The northwestern Indiana regional planning commission
- 15 established by IC 36-7-7.6-3.
- 16 (23) The commuter rail service board established under
- 17 IC 8-24-5.
- 18 (24) The regional demand and scheduled bus service board
- 19 established under IC 8-24-6.
- 20 (b) A disbursing officer (as described in IC 5-11-10) who
- 21 knowingly or intentionally pays a claim that is not:
- 22 (1) fully itemized; and
- 23 (2) properly certified to by the claimant or some authorized
- 24 person in the claimant's behalf, with the following words of
- 25 certification: I hereby certify that the foregoing account is
- 26 just and correct, that the amount claimed is legally due, after
- 27 allowing all just credits, and that no part of the same has been
- 28 paid;
- 29 commits a violation of the itemization and certification rule, a
- 30 Class A misdemeanor.
- 31 Sec. 4. (a) As used in this section, a "purchase" means:
- 32 (1) the purchase of materials, equipment, goods and supplies
- 33 for at least ten thousand dollars (\$10,000); or
- 34 (2) the leasing of equipment for at least five thousand dollars
- 35 (\$5,000).
- 36 (b) A state purchaser of materials (as described in IC 5-17-1)
- 37 who fails to advertise (as defined in IC 5-3-1) for, receive, or
- 38 consider bids for purchase commits unlawful competitive bidding,
- 39 a Class A misdemeanor.
- 40 Sec. 5. A person who knowingly, intentionally, or recklessly
- 41 violates:
- 42 (1) IC 5-10.4-3-10;

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1 (2) IC 5-10.4-3-12;
 2 (3) IC 5-10.4-3-14; or
 3 (4) IC 5-10.4-3-15;
 4 **commits improper teacher's retirement fund accounting, a Class**
 5 **A misdemeanor.**

6 **Sec. 6. A board of trustees or correctional facility that borrows**
 7 **without legislative approval under IC 4-10-14-1 is subject to a civil**
 8 **action for an infraction under IC 4-10-14-2.**

9 **Sec. 7. A person who improperly disposes of a law enforcement**
 10 **vehicle is subject to a civil action for an infraction under**
 11 **IC 5-22-22-9.**

12 **Chapter 3. State Public Works Contracting**

13 **Sec. 1. A person who violates provisions relating to state public**
 14 **works contracts is subject to criminal prosecution under**
 15 **IC 4-13.6-4-14.**

16 **Sec. 2. A person who has a conflict of interest with respect to a**
 17 **hospital bonding authority contract is subject to criminal**
 18 **prosecution under IC 5-1-4-22.**

19 **Sec. 3. A member or person employed by the law enforcement**
 20 **academy building commission who has a conflict of interest with**
 21 **respect to an action by the commission is subject to criminal**
 22 **prosecution under IC 5-2-2-11.**

23 **Sec. 4. A person who commits a wage scale violation in a state**
 24 **public works contract is subject to criminal prosecution under**
 25 **IC 5-16-7-3.**

26 **Sec. 5. A person who unlawfully divides a public works project**
 27 **is subject to a civil action for an infraction under IC 5-16-7-6.**

28 **Sec. 6. A person who improperly engages in certain employee**
 29 **organization activities is subject to a civil action for an infraction**
 30 **under IC 4-15-17-9.**

31 **Chapter 4. Confidentiality of Records and Meetings**

32 **Sec. 1. A person who discloses confidential information is**
 33 **subject to criminal prosecution under IC 5-14-3-10.**

34 **Sec. 2. (a) An employee of a state agency who unlawfully**
 35 **discloses a Social Security number is subject to criminal**
 36 **prosecution under IC 4-1-10-8.**

37 **(b) An employee of a state agency who makes a false**
 38 **representation to obtain a Social Security number is subject to**
 39 **criminal prosecution under IC 4-1-10-9.**

40 **(c) An employee of a state agency who negligently discloses a**
 41 **Social Security number is subject to a civil action for an infraction**
 42 **under IC 4-1-10-10.**

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1 **Sec. 3. A person who unlawfully discloses confidential inspector**
 2 **general information is subject to criminal prosecution under**
 3 **IC 4-2-7-8.**

4 **Sec. 4. A person who unlawfully discloses criminal intelligence**
 5 **information is subject to criminal prosecution under IC 5-2-4-7.**

6 **Sec. 5. A person who unlawfully discloses enterprise zone**
 7 **information is subject to criminal prosecution under IC 5-28-15-8.**

8 **Sec. 6. A person who unlawfully discloses advance notice of a**
 9 **state examiner investigation is subject to criminal prosecution**
 10 **under IC 5-11-1-18.**

11 **Sec. 7. A person who unlawfully destroys certain public records**
 12 **is subject to criminal prosecution under IC 5-15-6-8.**

13 SECTION 55. IC 35-45-6-1, AS AMENDED BY P.L.182-2011,
 14 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2012]: Sec. 1. (a) The definitions in this section apply
 16 throughout this chapter.

17 (b) "Documentary material" means any document, drawing,
 18 photograph, recording, or other tangible item containing compiled data
 19 from which information can be either obtained or translated into a
 20 usable form.

21 (c) "Enterprise" means:

- 22 (1) a sole proprietorship, corporation, limited liability company,
- 23 partnership, business trust, or governmental entity; or
- 24 (2) a union, an association, or a group, whether a legal entity or
- 25 merely associated in fact.

26 (d) "Pattern of racketeering activity" means engaging in at least two
 27 (2) incidents of racketeering activity that have the same or similar
 28 intent, result, accomplice, victim, or method of commission, or that are
 29 otherwise interrelated by distinguishing characteristics that are not
 30 isolated incidents. However, the incidents are a pattern of racketeering
 31 activity only if at least one (1) of the incidents occurred after August
 32 31, 1980, and if the last of the incidents occurred within five (5) years
 33 after a prior incident of racketeering activity.

34 (e) "Racketeering activity" means to commit, to attempt to commit,
 35 to conspire to commit a violation of, or aiding and abetting in a
 36 violation of any of the following:

- 37 (1) A provision of IC 23-19, or of a rule or order issued under
- 38 IC 23-19.
- 39 (2) A violation of IC 35-45-9.
- 40 (3) A violation of IC 35-47.
- 41 (4) A violation of IC 35-49-3.
- 42 (5) Murder (IC 35-42-1-1).

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- 1 (6) Battery as a Class C felony (IC 35-42-2-1).
 2 (7) Kidnapping (IC 35-42-3-2).
 3 (8) Human and sexual trafficking crimes (IC 35-42-3.5).
 4 (9) Child exploitation (IC 35-42-4-4).
 5 (10) Robbery (IC 35-42-5-1).
 6 (11) Carjacking (IC 35-42-5-2).
 7 (12) Arson (IC 35-43-1-1).
 8 (13) Burglary (IC 35-43-2-1).
 9 (14) Theft (IC 35-43-4-2).
 10 (15) Receiving stolen property (IC 35-43-4-2).
 11 (16) Forgery (IC 35-43-5-2).
 12 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
 13 (18) Bribery (~~IC 35-44-1-1~~): **(IC 35-44.1-1-2)**.
 14 (19) Official misconduct (~~IC 35-44-1-2~~): **(IC 35-44.1-1-1)**.
 15 (20) Conflict of interest (~~IC 35-44-1-3~~): **(IC 35-44.1-1-4)**.
 16 (21) Perjury (~~IC 35-44-2-1~~): **(IC 35-44.1-2-1)**.
 17 (22) Obstruction of justice (~~IC 35-44-3-4~~): **(IC 35-44.1-2-2)**.
 18 (23) Intimidation (IC 35-45-2-1).
 19 (24) Promoting prostitution (IC 35-45-4-4).
 20 (25) Professional gambling (IC 35-45-5-3).
 21 (26) Maintaining a professional gambling site
 22 (IC 35-45-5-3.5(b)).
 23 (27) Promoting professional gambling (IC 35-45-5-4).
 24 (28) Dealing in or manufacturing cocaine or a narcotic drug
 25 (IC 35-48-4-1).
 26 (29) Dealing in or manufacturing methamphetamine
 27 (IC 35-48-4-1.1).
 28 (30) Dealing in a schedule I, II, or III controlled substance
 29 (IC 35-48-4-2).
 30 (31) Dealing in a schedule IV controlled substance
 31 (IC 35-48-4-3).
 32 (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 33 (33) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 34 cannabinoid (IC 35-48-4-10).
 35 (34) Money laundering (IC 35-45-15-5).
 36 (35) A violation of IC 35-47.5-5.
 37 (36) A violation of any of the following:
 38 (A) IC 23-14-48-9.
 39 (B) IC 30-2-9-7(b).
 40 (C) IC 30-2-10-9(b).
 41 (D) IC 30-2-13-38(f).
 42 SECTION 56. IC 35-47-1-7, AS AMENDED BY P.L.127-2011,

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1 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2012]: Sec. 7. "Proper person" means a person who:

- 3 (1) does not have a conviction for resisting law enforcement
4 under ~~IC 35-44-3-3~~ **IC 35-44.1-3-1** within five (5) years before
5 the person applies for a license or permit under this chapter;
6 (2) does not have a conviction for a crime for which the person
7 could have been sentenced for more than one (1) year;
8 (3) does not have a conviction for a crime of domestic violence
9 (as defined in IC 35-41-1-6.3), unless a court has restored the
10 person's right to possess a firearm under IC 35-47-4-7;
11 (4) is not prohibited by a court order from possessing a handgun;
12 (5) does not have a record of being an alcohol or drug abuser as
13 defined in this chapter;
14 (6) does not have documented evidence which would give rise to
15 a reasonable belief that the person has a propensity for violent or
16 emotionally unstable conduct;
17 (7) does not make a false statement of material fact on the
18 person's application;
19 (8) does not have a conviction for any crime involving an inability
20 to safely handle a handgun;
21 (9) does not have a conviction for violation of the provisions of
22 this article within five (5) years of the person's application;
23 (10) does not have an adjudication as a delinquent child for an act
24 that would be a felony if committed by an adult, if the person
25 applying for a license or permit under this chapter is less than
26 twenty-three (23) years of age;
27 (11) has not been involuntarily committed, other than a temporary
28 commitment for observation or evaluation, to a mental institution
29 by a court, board, commission, or other lawful authority;
30 (12) has not been the subject of a:
31 (A) ninety (90) day commitment as a result of proceeding
32 under IC 12-26-6; or
33 (B) regular commitment under IC 12-26-7; or
34 (13) has not been found by a court to be mentally incompetent,
35 including being found:
36 (A) not guilty by reason of insanity;
37 (B) guilty but mentally ill; or
38 (C) incompetent to stand trial.

39 SECTION 57. IC 35-47-4-5, AS AMENDED BY P.L.151-2006,
40 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2012]: Sec. 5. (a) As used in this section, "serious violent
42 felon" means a person who has been convicted of:

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- 1 (1) committing a serious violent felony in:
 2 (A) Indiana; or
 3 (B) any other jurisdiction in which the elements of the crime
 4 for which the conviction was entered are substantially similar
 5 to the elements of a serious violent felony; or
 6 (2) attempting to commit or conspiring to commit a serious
 7 violent felony in:
 8 (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;
 9 or
 10 (B) any other jurisdiction in which the elements of the crime
 11 for which the conviction was entered are substantially similar
 12 to the elements of attempting to commit or conspiring to
 13 commit a serious violent felony.
- 14 (b) As used in this section, "serious violent felony" means:
 15 (1) murder (IC 35-42-1-1);
 16 (2) voluntary manslaughter (IC 35-42-1-3);
 17 (3) reckless homicide not committed by means of a vehicle
 18 (IC 35-42-1-5);
 19 (4) battery as a:
 20 (A) Class A felony (IC 35-42-2-1(a)(5));
 21 (B) Class B felony (IC 35-42-2-1(a)(4)); or
 22 (C) Class C felony (IC 35-42-2-1(a)(3));
 23 (5) aggravated battery (IC 35-42-2-1.5);
 24 (6) kidnapping (IC 35-42-3-2);
 25 (7) criminal confinement (IC 35-42-3-3);
 26 (8) rape (IC 35-42-4-1);
 27 (9) criminal deviate conduct (IC 35-42-4-2);
 28 (10) child molesting (IC 35-42-4-3);
 29 (11) sexual battery as a Class C felony (IC 35-42-4-8);
 30 (12) robbery (IC 35-42-5-1);
 31 (13) carjacking (IC 35-42-5-2);
 32 (14) arson as a Class A felony or Class B felony
 33 (IC 35-43-1-1(a));
 34 (15) burglary as a Class A felony or Class B felony
 35 (IC 35-43-2-1);
 36 (16) assisting a criminal as a Class C felony (~~IC 35-44-3-2~~)
 37 **(IC 35-44.1-2-5)**;
 38 (17) resisting law enforcement as a Class B felony or Class C
 39 felony (~~IC 35-44-3-3~~); **(IC 35-44.1-3-1)**;
 40 (18) escape as a Class B felony or Class C felony (~~IC 35-44-3-5~~);
 41 **(IC 35-44.1-3-4)**;
 42 (19) trafficking with an inmate as a Class C felony

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- 1 ~~(IC 35-44-3-9)~~; **(IC 35-44.1-3-5)**;
 2 (20) criminal gang intimidation (IC 35-45-9-4);
 3 (21) stalking as a Class B felony or Class C felony
 4 (IC 35-45-10-5);
 5 (22) incest (IC 35-46-1-3);
 6 (23) dealing in or manufacturing cocaine or a narcotic drug
 7 (IC 35-48-4-1);
 8 (24) dealing in methamphetamine (IC 35-48-4-1.1);
 9 (25) dealing in a schedule I, II, or III controlled substance
 10 (IC 35-48-4-2);
 11 (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
 12 or
 13 (27) dealing in a schedule V controlled substance (IC 35-48-4-4).
 14 (c) A serious violent felon who knowingly or intentionally possesses
 15 a firearm commits unlawful possession of a firearm by a serious violent
 16 felon, a Class B felony.
 17 SECTION 58. IC 35-50-1-2, AS AMENDED BY P.L.126-2008,
 18 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2012]: Sec. 2. (a) As used in this section, "crime of violence"
 20 means the following:
 21 (1) Murder (IC 35-42-1-1).
 22 (2) Attempted murder (IC 35-41-5-1).
 23 (3) Voluntary manslaughter (IC 35-42-1-3).
 24 (4) Involuntary manslaughter (IC 35-42-1-4).
 25 (5) Reckless homicide (IC 35-42-1-5).
 26 (6) Aggravated battery (IC 35-42-2-1.5).
 27 (7) Kidnapping (IC 35-42-3-2).
 28 (8) Rape (IC 35-42-4-1).
 29 (9) Criminal deviate conduct (IC 35-42-4-2).
 30 (10) Child molesting (IC 35-42-4-3).
 31 (11) Sexual misconduct with a minor as a Class A felony under
 32 IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
 33 (12) Robbery as a Class A felony or a Class B felony
 34 (IC 35-42-5-1).
 35 (13) Burglary as a Class A felony or a Class B felony
 36 (IC 35-43-2-1).
 37 (14) Operating a motor vehicle while intoxicated causing death
 38 (IC 9-30-5-5).
 39 (15) Operating a motor vehicle while intoxicated causing serious
 40 bodily injury to another person (IC 9-30-5-4).
 41 (16) Resisting law enforcement as a felony ~~(IC 35-44-3-3)~~;
 42 **(IC 35-44.1-3-1)**.

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1 (b) As used in this section, "episode of criminal conduct" means
 2 offenses or a connected series of offenses that are closely related in
 3 time, place, and circumstance.

4 (c) Except as provided in subsection (d) or (e), the court shall
 5 determine whether terms of imprisonment shall be served concurrently
 6 or consecutively. The court may consider the:

7 (1) aggravating circumstances in IC 35-38-1-7.1(a); and

8 (2) mitigating circumstances in IC 35-38-1-7.1(b);

9 in making a determination under this subsection. The court may order
 10 terms of imprisonment to be served consecutively even if the sentences
 11 are not imposed at the same time. However, except for crimes of
 12 violence, the total of the consecutive terms of imprisonment, exclusive
 13 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to
 14 which the defendant is sentenced for felony convictions arising out of
 15 an episode of criminal conduct shall not exceed the advisory sentence
 16 for a felony which is one (1) class of felony higher than the most
 17 serious of the felonies for which the person has been convicted.

18 (d) If, after being arrested for one (1) crime, a person commits
 19 another crime:

20 (1) before the date the person is discharged from probation,
 21 parole, or a term of imprisonment imposed for the first crime; or

22 (2) while the person is released:

23 (A) upon the person's own recognizance; or

24 (B) on bond;

25 the terms of imprisonment for the crimes shall be served consecutively,
 26 regardless of the order in which the crimes are tried and sentences are
 27 imposed.

28 (e) If the factfinder determines under IC 35-50-2-11 that a person
 29 used a firearm in the commission of the offense for which the person
 30 was convicted, the term of imprisonment for the underlying offense and
 31 the additional term of imprisonment imposed under IC 35-50-2-11
 32 must be served consecutively.

33 SECTION 59. IC 35-50-2-2, AS AMENDED BY P.L.64-2008,
 34 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2012]: Sec. 2. (a) The court may suspend any part of a
 36 sentence for a felony, except as provided in this section or in section
 37 2.1 of this chapter.

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

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- 1 (1) The crime committed was a Class A felony or Class B felony
 2 and the person has a prior unrelated felony conviction.
- 3 (2) The crime committed was a Class C felony and less than seven
 4 (7) years have elapsed between the date the person was
 5 discharged from probation, imprisonment, or parole, whichever
 6 is later, for a prior unrelated felony conviction and the date the
 7 person committed the Class C felony for which the person is
 8 being sentenced.
- 9 (3) The crime committed was a Class D felony and less than three
 10 (3) years have elapsed between the date the person was
 11 discharged from probation, imprisonment, or parole, whichever
 12 is later, for a prior unrelated felony conviction and the date the
 13 person committed the Class D felony for which the person is
 14 being sentenced. However, the court may suspend the minimum
 15 sentence for the crime only if the court orders home detention
 16 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
 17 sentence specified for the crime under this chapter.
- 18 (4) The felony committed was:
- 19 (A) murder (IC 35-42-1-1);
- 20 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
 21 causing death;
- 22 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- 23 (D) kidnapping (IC 35-42-3-2);
- 24 (E) confinement (IC 35-42-3-3) with a deadly weapon;
- 25 (F) rape (IC 35-42-4-1) as a Class A felony;
- 26 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
 27 felony;
- 28 (H) except as provided in subsection (i), child molesting
 29 (IC 35-42-4-3) as a Class A or Class B felony, unless:
- 30 (i) the felony committed was child molesting as a Class B
 31 felony;
- 32 (ii) the victim was not less than twelve (12) years old at the
 33 time the offense was committed;
- 34 (iii) the person is not more than four (4) years older than the
 35 victim, or more than five (5) years older than the victim if
 36 the relationship between the person and the victim was a
 37 dating relationship or an ongoing personal relationship (not
 38 including a family relationship);
- 39 (iv) the person did not have a position of authority or
 40 substantial influence over the victim; and
- 41 (v) the person has not committed another sex offense (as
 42 defined in IC 11-8-8-5.2) (including a delinquent act that

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- 1 would be a sex offense if committed by an adult) against any
 2 other person;
- 3 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
 4 with a deadly weapon;
- 5 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
 6 injury;
- 7 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
 8 or with a deadly weapon;
- 9 (L) resisting law enforcement (~~IC 35-44-3-3~~) **(IC 35-44.1-3-1)**
 10 with a deadly weapon;
- 11 (M) escape (~~IC 35-44-3-5~~) **(IC 35-44.1-3-4)** with a deadly
 12 weapon;
- 13 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 14 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the
 15 court finds the person possessed a firearm (as defined in
 16 IC 35-47-1-5) at the time of the offense, or the person
 17 delivered or intended to deliver to a person under eighteen
 18 (18) years of age at least three (3) years junior to the person
 19 and was on a school bus or within one thousand (1,000) feet
 20 of:
- 21 (i) school property;
- 22 (ii) a public park;
- 23 (iii) a family housing complex; or
- 24 (iv) a youth program center;
- 25 (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court
 26 finds the person possessed a firearm (as defined in
 27 IC 35-47-1-5) at the time of the offense, or the person
 28 delivered or intended to deliver the methamphetamine pure or
 29 adulterated to a person under eighteen (18) years of age at
 30 least three (3) years junior to the person and was on a school
 31 bus or within one thousand (1,000) feet of:
- 32 (i) school property;
- 33 (ii) a public park;
- 34 (iii) a family housing complex; or
- 35 (iv) a youth program center;
- 36 (Q) dealing in a schedule I, II, or III controlled substance
 37 (IC 35-48-4-2) if the court finds the person possessed a firearm
 38 (as defined in IC 35-47-1-5) at the time of the offense, or the
 39 person delivered or intended to deliver to a person under
 40 eighteen (18) years of age at least three (3) years junior to the
 41 person and was on a school bus or within one thousand (1,000)
 42 feet of:

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- 1 (i) school property;
- 2 (ii) a public park;
- 3 (iii) a family housing complex; or
- 4 (iv) a youth program center;
- 5 (R) an offense under IC 9-30-5 (operating a vehicle while
- 6 intoxicated) and the person who committed the offense has
- 7 accumulated at least two (2) prior unrelated convictions under
- 8 IC 9-30-5;
- 9 (S) an offense under IC 9-30-5-5(b) (operating a vehicle while
- 10 intoxicated causing death);
- 11 (T) aggravated battery (IC 35-42-2-1.5); or
- 12 (U) disarming a law enforcement officer (~~IC 35-44-3-3.5.~~
- 13 **(IC 35-44.1-3-2).**

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

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

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

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

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

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

34 (i) If a person is:
 35 (1) convicted of child molesting (IC 35-42-4-3) as a Class A
 36 felony against a victim less than twelve (12) years of age; and
 37 (2) at least twenty-one (21) years of age;
 38 the court may suspend only that part of the sentence that is in excess of
 39 thirty (30) years.

40 SECTION 60. IC 35-50-5-1.1, AS AMENDED BY P.L.119-2005,
 41 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2012]: Sec. 1.1. (a) Whenever a person is convicted of a

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1 misdemeanor under ~~IC 35-44-1~~, **IC 35-44.1-1**, the court may include
 2 in the sentence an order rendering the person incapable of holding a
 3 public office of trust or profit for a fixed period of not more than ten
 4 (10) years.

5 (b) If any officer of a governmental entity is convicted of a
 6 misdemeanor under ~~IC 35-44-1~~, **IC 35-44.1-1**, the court may enter an
 7 order removing the officer from office.

8 (c) This subsection applies whenever:

- 9 (1) the court enters an order under this section that applies to a
 10 person who is an officer of a governmental entity (as defined in
 11 IC 35-41-1-12); and
 12 (2) a vacancy occurs in the office held by the person as the result
 13 of the court's order.

14 The court must file a certified copy of the order with the person who is
 15 entitled under IC 5-8-6 to receive notice of the death of an individual
 16 holding the office. The person receiving the copy of the order must give
 17 notice of the order in the same manner as if the person had received a
 18 notice of the death of the officeholder under IC 5-8-6. The person
 19 required or permitted to fill the vacancy that results from a removal
 20 under this section must comply with IC 3-13 or IC 20, whichever
 21 applies, to fill the vacancy.

22 SECTION 61. IC 35-51-4-1, AS ADDED BY P.L.70-2011,
 23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 4:

25 IC 4-1-10-8 (Concerning state agencies).

26 IC 4-1-10-9 (Concerning state agencies).

27 ~~IC 4-2-6-13 (Concerning state officers):~~

28 ~~IC 4-2-6-14 (Concerning state officers):~~

29 IC 4-2-7-8 (Concerning the inspector general).

30 IC 4-4-27-8 (Concerning the inspection of grain).

31 ~~IC 4-11-1-6 (Concerning certain loans and mortgages):~~

32 ~~IC 4-13-1-2-11 (Concerning the department of correction
 33 ombudsman):~~

34 ~~IC 4-13-4-1-4 (Concerning the department of administration):~~

35 ~~IC 4-13-19-11 (Concerning the department of child services
 36 ombudsman):~~

37 IC 4-13.6-4-14 (Concerning state public works).

38 IC 4-15-2-42 (Concerning state merit employment).

39 ~~IC 4-15-10-4 (Concerning certain state employee reports):~~

40 IC 4-21.5-3-36 (Concerning administrative proceedings).

41 IC 4-21.5-3-37 (Concerning administrative proceedings).

42 IC 4-30-3-19 (Concerning the lottery).

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- 1 IC 4-30-3-19.5 (Concerning the lottery).
 2 IC 4-30-3-19.7 (Concerning the lottery).
 3 IC 4-30-12-5 (Concerning the lottery).
 4 IC 4-30-13-1 (Concerning the lottery).
 5 IC 4-30-14-1 (Concerning the lottery).
 6 IC 4-30-14-2 (Concerning the lottery).
 7 IC 4-30-14-3 (Concerning the lottery).
 8 IC 4-30-14-4 (Concerning the lottery).
 9 IC 4-30-14-5 (Concerning ~~the lottery~~; **horse racing**).
 10 IC 4-30-14-6 (Concerning the lottery).
 11 IC 4-31-13-3 (Concerning horse racing).
 12 IC 4-31-13-3.5 (Concerning horse racing).
 13 IC 4-31-13-9 (Concerning ~~the lottery~~; **horse racing**).
 14 IC 4-32.2-8-4 (Concerning charity gaming).
 15 IC 4-33-10-1 (Concerning riverboat gambling).
 16 IC 4-33-10-2 (Concerning riverboat gambling).
 17 IC 4-33-10-2.1 (Concerning riverboat gambling).
 18 IC 4-33-10-2.5 (Concerning riverboat gambling).
 19 IC 4-33-22-14 (Concerning boxing and mixed martial arts).
 20 IC 4-33-22-40 (Concerning boxing and mixed martial arts).
 21 IC 4-35-9-2 (Concerning gambling games at racetracks).
 22 IC 4-35-9-3 (Concerning gambling games at racetracks).
 23 IC 4-35-9-4 (Concerning gambling games at racetracks).
 24 IC 4-35-9-5 (Concerning gambling games at racetracks).
 25 IC 4-36-6-5 (Concerning gambling in certain establishments).
 26 SECTION 62. IC 35-51-5-1, AS ADDED BY P.L.70-2011,
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 5:
 29 IC 5-1-4-22 (Concerning hospital bonding authorities).
 30 IC 5-2-2-11 (Concerning the law enforcement academy building
 31 commission).
 32 IC 5-2-4-7 (Concerning criminal intelligence information).
 33 IC 5-10.4-3-16 (Concerning the Indiana state teacher's retirement
 34 fund).
 35 IC 5-11-1-18 (Concerning state board of accounts).
 36 ~~IC 5-11-10-3 (Concerning certification of claims).~~
 37 ~~IC 5-13-14-3 (Concerning public funds).~~
 38 ~~IC 5-13-14-4 (Concerning public funds).~~
 39 ~~IC 5-14-3-10 (Concerning access to public records).~~
 40 IC 5-15-6-8 (Concerning local public records commissions).
 41 IC 5-16-7-3 (Concerning wage scale of contractor's and
 42 subcontractors employees).

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- 1 IC 5-16-9-5 (Concerning parking for persons with physical
2 disabilities).
- 3 ~~IC 5-17-1-5 (Concerning public purchases):~~
4 ~~IC 5-17-1-6 (Concerning public purchases):~~
5 IC 5-28-15-7 (Concerning enterprise zones).
6 IC 5-28-15-8 (Concerning enterprise zones).
- 7 SECTION 63. IC 36-8-12-10.5, AS AMENDED BY P.L.63-2009,
8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2012]: Sec. 10.5. (a) This section does not apply to an
10 employee of the state subject to IC 4-15-10-7.
- 11 (b) This section applies to an employee of a political subdivision
12 who:
- 13 (1) is a volunteer firefighter or volunteer member; and
14 (2) has notified the employee's employer in writing that the
15 employee is a volunteer firefighter or volunteer member.
- 16 (c) The political subdivision employer may not discipline an
17 employee:
- 18 (1) for being absent from employment by reason of responding to
19 a fire or emergency call that was received before the time that the
20 employee was to report to employment;
21 (2) for leaving the employee's duty station to respond to a fire or
22 an emergency call if the employee has secured authorization from
23 the employee's supervisor to leave the duty station in response to
24 a fire or an emergency call received after the employee has
25 reported to work; or
26 (3) for:
- 27 (A) an injury; or
28 (B) an absence from work because of an injury;
29 that occurs while the employee is engaged in emergency
30 firefighting or other emergency response.
- 31 However, for each instance of emergency firefighting activity or other
32 emergency response that results in an injury to an employee,
33 subdivision (3) applies only to the period of the employee's absence
34 from work that does not exceed six (6) months from the date of the
35 injury.
- 36 (d) The political subdivision employer may require an employee
37 who has been absent from employment as set forth in subsection (c) to
38 present a written statement from the fire chief or other officer in charge
39 of the volunteer fire department, or officer in charge of the volunteer
40 emergency medical services association, at the time of the absence or
41 injury indicating that the employee was engaged in emergency
42 firefighting or emergency activity at the time of the absence or injury.

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1 (e) The political subdivision employer may require an employee
 2 who is injured or absent from work as described in subsection (c)(3) to
 3 provide evidence from a physician or other medical authority showing:
 4 (1) treatment for the injury at the time of the absence; and
 5 (2) a connection between the injury and the employee's
 6 emergency firefighting or other emergency response activities.
 7 (f) To the extent required by federal or state law, information
 8 obtained under subsection (e) by a political subdivision employer must
 9 be:
 10 (1) retained in a separate medical file created for the employee;
 11 and
 12 (2) treated as a confidential medical record.
 13 (g) An employee who is disciplined by the employer in violation of
 14 subsection (c) may bring a civil action against the employer in the
 15 county of employment. In the action, the employee may seek the
 16 following:
 17 (1) Payment of back wages.
 18 (2) Reinstatement to the employee's former position.
 19 (3) Fringe benefits wrongly denied or withdrawn.
 20 (4) Seniority rights wrongly denied or withdrawn.
 21 An action brought under this subsection must be filed within one (1)
 22 year after the date of the disciplinary action.
 23 (h) A public servant who permits or authorizes an employee of a
 24 political subdivision under the supervision of the public servant to be
 25 absent from employment as set forth in subsection (c) is not considered
 26 to have committed a violation of ~~IC 35-44-2-4(b)~~: **IC 35-44.1-1-3(b)**.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 262, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 262 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

 SENATE MOTION

Madam President: I move that Engrossed Senate Bill 262, which is eligible for third reading, be returned to second reading for purposes of amendment.

BRAY

 SENATE MOTION

Madam President: I move that Senate Bill 262 be amended to read as follows:

Page 7, line 31, strike "IC 35-44-1-3." and insert "**IC 35-44.1-1.**".

Page 7, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 5. IC 4-2-7-6, AS ADDED BY P.L.222-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) This section applies if the inspector general finds evidence of misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the state or in an unlawful benefit to an individual in the conduct of state business.

(b) If the inspector general finds evidence described in subsection (a), the inspector general shall certify a report of the matter to the attorney general and provide the attorney general with any relevant documents, transcripts, or written statements. Not later than one hundred eighty (180) days after receipt of the report from the inspector general, the attorney general shall do one (1) of the following:

(1) File a civil action (including an action upon a state officer's

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official bond) to secure for the state the recovery of funds misappropriated, diverted, missing, or unlawfully gained. Upon request of the attorney general, the inspector general shall assist the attorney general in the investigation, preparation, and prosecution of the civil action.

(2) Inform the inspector general that the attorney general does not intend to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. If the attorney general elects not to file a civil action, the attorney general shall return to the inspector general all documents and files initially provided by the inspector general.

(3) Inform the inspector general that the attorney general is diligently investigating the matter and after further investigation may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. However, if more than three hundred sixty-five (365) days have passed since the inspector general certified the report to the attorney general, the attorney general loses the authority to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained and shall return to the inspector general all documents and files initially provided by the inspector general.

(c) If the inspector general has found evidence described in subsection (a) and reported to the attorney general under subsection (b) and:

(1) the attorney general has elected under subsection (b)(2) not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained; or

(2) under subsection (b)(3) more than three hundred sixty-five (365) days have passed since the inspector general certified the report to the attorney general under subsection (b) and the attorney general has not filed a civil action;

the inspector general may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained.

(d) If the inspector general has found evidence described in subsection (a), the inspector general may institute forfeiture proceedings under IC 34-24-2 in a court having jurisdiction in a county where property derived from or realized through the misappropriation, diversion, disappearance, or unlawful gain of state funds may be located, unless a prosecuting attorney has already instituted forfeiture proceedings against that property.

(e) The inspector general may directly institute civil proceedings against a person who has failed to pay civil penalties imposed by

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the ethics commission under IC 4-2-6-12."

Page 8, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 7. IC 4-6-3-2, AS AMENDED BY P.L.111-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The attorney general shall have charge of and direct the prosecution of all civil actions that are brought in the name of the state of Indiana or any state agency.

(b) In no instance under this section shall the state or a state agency be required to file a bond.

(c) This section does not affect the authority of prosecuting attorneys to prosecute civil actions.

(d) This section does not affect the authority of the inspector general to prosecute a civil action under IC 4-2-7-6 for the recovery of **any of the following:**

(1) Funds misappropriated, diverted, missing, or unlawfully gained.

(2) **A civil penalty imposed by the state ethics commission under IC 4-2-6-12.**

(e) The attorney general may bring an action to collect unpaid registration fees owed by a commercial dog broker or a commercial dog breeder under IC 15-21."

Page 11, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 17. IC 5-11-5-1, AS AMENDED BY P.L.176-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Whenever an examination is made under this article, a report of the examination shall be made. The report must include a list of findings and shall be signed and verified by the examiner making the examination. A finding that is critical of an examined entity must be based upon one (1) of the following:

(1) Failure of the entity to observe a uniform compliance guideline established under IC 5-11-1-24(a).

(2) Failure of the entity to comply with a specific law.

A report that includes a finding that is critical of an examined entity must designate the uniform compliance guideline or the specific law upon which the finding is based. The reports shall immediately be filed with the state examiner, and, after inspection of the report, the state examiner shall immediately file one (1) copy with the officer or person examined, one (1) copy with the auditing department of the municipality examined and reported upon, and one (1) copy in an electronic format under IC 5-14-6 of the reports of examination of state agencies, instrumentalities of the state, and federal funds administered by the state with the legislative services agency, as staff to the general

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assembly. Upon filing, the report becomes a part of the public records of the office of the state examiner, of the office or the person examined, of the auditing department of the municipality examined and reported upon, and of the legislative services agency, as staff to the general assembly. A report is open to public inspection at all reasonable times after it is filed. If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general **and the inspector general**. The attorney general shall diligently institute and prosecute civil proceedings against the delinquent officer, or upon the officer's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(b) Before an examination report is signed, verified, and filed as required by subsection (a), the officer or the chief executive officer of the state office, municipality, or entity examined must have an opportunity to review the report and to file with the state examiner a written response to that report. If a written response is filed, it becomes a part of the examination report that is signed, verified, and filed as required by subsection (a).

(c) Except as required by subsections (b) and (d), it is unlawful for any deputy examiner, field examiner, or private examiner, before an examination report is made public as provided by this section, to make any disclosure of the result of any examination of any public account, except to the state examiner or if directed to give publicity to the examination report by the state examiner or by any court. If an examination report shows or discloses the commission of a crime by any person, it is the duty of the state examiner to transmit and present the examination report to the grand jury of the county in which the crime was committed at its first session after the making of the examination report and at any subsequent sessions that may be required. The state examiner shall furnish to the grand jury all evidence at the state examiner's command necessary in the investigation and prosecution of the crime.

(d) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that the following conditions are satisfied, the examiner shall report the determination to the state examiner:

- (1) A substantial amount of public funds has been misappropriated or diverted.
- (2) The deputy examiner, field examiner, or private examiner



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acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of the public funds was committed by the officer or an employee of the office.

(e) After receiving a preliminary report under subsection (d), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(f) In an action under subsection (e), the attorney general may attach the defendant's property under IC 34-25-2.

(g) A preliminary report under subsection (d) is confidential until the final report under subsection (a) is issued, unless the attorney general institutes an action under subsection (e) on the basis of the preliminary report.

SECTION 18. IC 5-11-6-1, AS AMENDED BY P.L.176-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, upon the petition of twenty-five (25) interested taxpayers showing that effective local relief has not and cannot be obtained after due effort, shall make the inquiries, tests, examinations, and investigations that may be necessary to determine whether:

- (1) any public contract has been regularly and lawfully executed and performed; or
- (2) any public work, building, or structure has been or is being performed, built, or constructed in accordance with the terms and provisions of the contract, and in compliance with the plans and specifications, if any.

Upon a written petition of twenty-five (25) taxpayers the state examiner may also require all plans, specifications, and estimates to be submitted to the state examiner for corrections and approval before a contract is awarded.

(b) The state examiner, deputy examiner, and any field examiner, when engaged in making an inquiry, test, examination, or investigation under subsection (a), is entitled to examine and inspect any public records, documents, data, contracts, plans, and specifications contained or found in any public office or other place pertaining or relating to the public contract or public work, building, or structure. In addition, subpoenas may be issued to witnesses to appear before the examiner in



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person or to produce books and papers for inspection and examination. The state examiner, deputy, field, and private examiner may administer oaths and examine witnesses under oath either orally or by interrogatories on all matters under examination and investigation. Under order of the state examiner, the examination may be transcribed, with the reasonable expense paid by the municipality in the same manner as the compensation of the field examiner is paid.

(c) The state examiner, the deputy examiner, and a field examiner may enforce attendance and answers to questions and interrogatories, as provided by law, with respect to examinations and investigations made by the state examiner, deputy examiner, field examiner, or private examiner of public offices.

(d) The state examiner, deputy examiner, any field examiner, and any private examiner, when making an examination or investigation under subsection (a), shall examine, inspect, and test the public works, buildings, or structures in the manner that the examiner sees fit to determine whether it is being performed, built, or constructed according to the contract and plans and specifications.

(e) The state examiner shall file a report covering any examination or investigation that discloses:

(1) fraud, collusion, misconduct, or negligence in the letting or the execution of any public contract or in the performance of any of the terms and conditions of any public contract; or

(2) any failure to comply with the terms or conditions of any public contract in the construction of any public work, building, or structure or to perform, build, or construct it according to the plans and specifications, if any, provided in the contract;

that causes loss, injury, waste, or damage to the state, the municipality, taxing or assessment district, other public entity, or to its citizens, if it is enforceable by assessment or taxation.

(f) The report must meet the following requirements:

(1) The report must be made, signed, and verified in quadruplicate by the examiner making the examination.

(2) The report shall be filed promptly with the state examiner.

After inspection of the report, the state examiner shall file a copy of the report promptly with the attorney general **and the inspector general.**

(g) The attorney general shall diligently institute and prosecute civil proceedings against any or all officers, individuals, and persons in the form and manner that the attorney general determines will secure a proper recovery to the state, municipality, taxing or assessment district, or other public entity injured, defrauded, or damaged by the matters in the report. These prosecutions may be made by the attorney general and

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the recovery may be had, either upon public official bonds, contractors' bonds, surety or other bonds, or upon individual liability, either upon contract or in tort, as the attorney general determines is wise. No action or recovery in any form or manner, or against any party or parties, precludes further or additional action or recovery in any other form or manner or against another party, either concurrently with or later found necessary, to secure complete recovery and restitution with respect to all matters exhibited, set out, or described in the report. The suits may be brought in the name of the state on the relation of the attorney general for the benefit of the state, or the municipality, taxing or assessment district, or other public entity that may be proper. The actions brought against any defendants may be joined, as to parties, form, and causes of action, in the manner that the attorney general decides.

(h) Any report described in this section or a copy duly certified by the state examiner shall be taken and received in any and all courts of this state as prima facie evidence of the facts stated and contained in the reports.

(i) If an examination, investigation, or test is made without a petition being first filed and the examination, investigation, or test shows that the terms of the contract are being complied with, then the expense of the examination, investigation, or test shall be paid by the state upon vouchers approved by the state examiner from funds available for contractual service of the state board of accounts. If such a report shows misfeasance, malfeasance, or nonfeasance in public office or shows that the terms of the plans and specifications under which a contract has been awarded are not being complied with, it is unlawful to make the report public until the report has been certified to the attorney general.

(j) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that all of the following conditions are satisfied, the examiner shall report the determination to the state examiner:

- (1) A substantial amount of public funds has been misappropriated or diverted.
- (2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of public funds was committed by the officer or an employee of the office.

(k) After receiving a preliminary report under subsection (j), the state examiner may provide a copy of the report to the attorney general.

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The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(l) In an action under subsection (k), the attorney general may attach the defendant's property under IC 34-25-2.

(m) A preliminary report under subsection (j) is confidential until the final report under subsection (e) is issued, unless the attorney general institutes an action under subsection (k) on the basis of the preliminary report.

SECTION 19. IC 5-11-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. If any examination or investigation made by the state examiner personally or through a deputy examiner, field examiner, or private examiner under of this chapter or **of under** any other statute discloses:

- (1) malfeasance, misfeasance, or nonfeasance in office, or of any officer or employee;
- (2) that any public money has been:
 - (A) unlawfully expended, either by having been expended for a purpose not authorized by law in an amount exceeding that authorized by law, or by having been paid to a person not lawfully entitled to receive it; or
 - (B) obtained by fraud or in any unlawful manner; or
- (3) that any money has been wrongfully withheld from the public treasury;

a duly verified copy of the report shall be submitted by the state examiner to the attorney general, who shall institute and prosecute civil proceedings as provided in section 1 of this chapter, **and to the inspector general.**"

Page 15, line 35, delete "IC 35-42-2-2));" and insert "IC 35-42-2-2);".

Page 31, line 18, delete "IC 35-44.1-3-5)." and insert "**(IC 35-44.1-3-5).**".

Page 45, line 13, delete "Subdivision" and insert "**Subsection**".

Page 63, line 36, delete "class" and insert "**Class**".

Page 66, line 10, strike "(IC 35-44-1-1)." and insert "**(IC 35-44.1-1-2).**".

Re-number all SECTIONS consecutively.

(Reference is to SB 262 as printed January 20, 2012.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 262, 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 19, delete lines 11 through 30, begin a new paragraph and insert:

"SECTION 24. IC 5-14-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency, except as provided by IC 4-15-10, who knowingly or intentionally discloses information classified as confidential by state statute, **including information declared confidential under:**

(1) section 4(a) of this chapter; or

(2) section 4(b) of this chapter if a public agency declared the information to be confidential;

commits a Class A misdemeanor.

(b) A public employee may be disciplined in accordance with the personnel policies of the agency by which the employee is employed if the employee intentionally, knowingly, or recklessly discloses or fails to protect information classified as confidential by state statute.

(c) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency who unintentionally and unknowingly discloses confidential or erroneous information in response to a request under IC 5-14-3-3(d) or who discloses confidential information in reliance on an advisory opinion by the public access counselor is immune from liability for such a disclosure.

(d) This section does not apply to any provision incorporated into state law from a federal statute."

Page 43, line 5, delete "IC 35-44.1-3-5," and insert "**IC 35-44.1-3-4,**".

Page 43, line 9, delete "IC 35-44.1-3-5," and insert "**IC 35-44.1-3-4,**".

and when so amended that said bill do pass.

(Reference is to SB 262 as reprinted January 27, 2012.)

STEUERWALD, Chair

Committee Vote: yeas 10, nays 0.

ES 262—LS 6768/DI 106+



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