



January 28, 2012

# HOUSE BILL No. 1011

DIGEST OF HB 1011 (Updated January 25, 2012 8:07 pm - DI 69)

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

**Synopsis:** Various corrections matters. Requires the department of correction (department) to: (1) determine the average daily marginal cost of incarcerating an offender; (2) determine the average length of stay for certain Class D felony offenders committed to the department; and (3) administer an incentive and disincentive program under which counties are rewarded for reducing the number of Class D felony offenders committed to the department and are penalized for increasing the number. Establishes the probation improvement fund administered by the judicial conference to award grants based on the recommendation by the department of correction to: (1) county probation departments that supervise persons convicted of a felony to promote the adoption of certain best practices to improve probation administration and services and reduce probation revocations; and (2) counties that supervise persons who have been convicted of a felony to consolidate and improve the efficiency of probation administration and services and community corrections programs. Provides that the probation improvement fund consists of appropriations from the general assembly and funds from savings realized by the department due to fewer Class D felons being committed to the department. Creates the forensic addiction fund to create a funding source for grants to probation departments and community corrections programs to increase substance abuse treatment access for individuals on probation or in a community corrections program. Requires the judicial conference of Indiana to administer the fund. Requires a sentencing court to inform the department of correction if the person sentenced is

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

## Foley, Steuerwald, Pierce, Lawson L

January 9, 2012, read first time and referred to Committee on Courts and Criminal Code.  
January 27, 2012, amended, reported — Do Pass.

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a credit restricted felon. Requires a court that determines that a person sentenced is a credit restricted felon to state in the sentencing order and the abstract of judgment that the person is a credit restricted felon. Requires the judicial conference to adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation. Provides procedures for a person on probation to be sanctioned by a probation officer. Requires that credit time earned by certain offenders shall be reduced to the extent that application of the credit time would result in postconviction release or a community transition program assignment in less than 45 days after the person earns the credit time. Requires the department to: (1) establish an automated victim notification system; and (2) notify a registered crime victim of certain changes affecting the committed offender who committed the crime against the victim. Specifies when the department shall make certain victim notifications. Provides that if a court imposes a felony sentence that involves a commitment to the department, the court shall state certain information in the sentencing order and abstract of judgment. Requires the division of state court administration to submit a report to the department detailing the number of Class D felony convictions for each county. Requires each county to establish a county offender fund. (The introduced version of this bill was prepared by the criminal code evaluation commission.)

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January 28, 2012

Second Regular Session 117th General Assembly (2012)

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

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

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

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## HOUSE BILL No. 1011

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

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

1 SECTION 1. IC 11-8-1-3.1 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2012]: **Sec. 3.1. "Average daily marginal cost of incarcerating an  
4 offender" means the average daily cost to the department to  
5 commit one (1) additional offender to the department, as  
6 determined under IC 11-10-13-1(b).**

7 SECTION 2. IC 11-8-7-2, AS ADDED BY P.L.64-2005, SECTION  
8 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
9 2012]: Sec. 2. (a) The department ~~may~~ **shall** establish an automated  
10 victim notification system that must do the following:

- 11 (1) Automatically notify a registered crime victim when a  
12 committed offender who committed the crime against the victim:  
13 (A) is assigned to a:  
14 (i) department facility; or  
15 (ii) county jail or any other facility not operated by the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 STEP ONE: For each county, determine:  
 39 (A) the number of offenders convicted of Class D felonies  
 40 in the county in calendar year 2011; and  
 41 (B) of that number, the percentage of Class D felony  
 42 offenders who were committed to the department.

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1           **STEP TWO: Determine the quotient of:**

2           **(A) the sum of the amounts determined under STEP ONE;**  
 3           **divided by**

4           **(B) the number of counties in Indiana.**

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

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

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

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

19           **(A) the STEP ONE number; by**

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

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

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

41          **Sec. 7. (a) Before June 1 of each year, the local incentives**  
 42          **calculated under sections 3 and 6 of this chapter shall be provided**

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1 from the marginal savings realized by the department as a result  
 2 of the counties committing fewer Class D felony offenders to the  
 3 department and shall be distributed to a county's county offender  
 4 fund under IC 36-2-21. The county fiscal body shall redistribute  
 5 the incentives as set forth in IC 36-2-21-1.

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

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

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

17 (1) whose probation has been revoked after the offender was  
 18 previously incarcerated for the felony by the department in a  
 19 department facility;

20 (2) whose participation in a community corrections program  
 21 has been terminated as a result of a violation of program  
 22 requirements;

23 (3) whose participation in a problem solving court program  
 24 has been terminated as a result of a violation of program  
 25 requirements; or

26 (4) who is committed temporarily to the department under  
 27 IC 35-33-11-1.

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

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

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

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

39 (1) educational and occupational qualifications for employment  
 40 as a probation officer;

41 (2) compensation of probation officers;

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

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1 contained in those records; and

2 (4) presentence investigation reports;

3 **(5) a schedule of progressive probation incentives and**  
 4 **violation sanctions, including judicial review procedures; and**

5 **(6) qualifications for probation officers to administer**  
 6 **probation violation sanctions under IC 35-38-2-3(e).**

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

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

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

19 (1) the implementation and management of probation case  
 20 classification; and

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

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

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

30 (1) Eligibility standards.

31 (2) Testing requirements and procedures.

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

35 (4) Procedures and requirements for placement in residential  
 36 special education institutions or facilities under IC 20-35-6-2 and  
 37 511 IAC 7-27-12.

38 (5) Development and implementation of individual education  
 39 programs for eligible children in:

40 (A) accordance with applicable requirements of state and  
 41 federal laws and rules; and

42 (B) coordination with:

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- 1 (i) individual case plans; and  
 2 (ii) informal adjustment programs or dispositional decrees  
 3 entered by courts having juvenile jurisdiction under  
 4 IC 31-34 and IC 31-37.

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

9 Training for probation departments may be provided jointly with  
 10 training provided to child welfare caseworkers relating to the same  
 11 subject matter.

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

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

- 19 (1) selection, training, distribution, and removal of probation  
 20 officers;  
 21 (2) methods and procedure for the administration of probation,  
 22 including investigation, supervision, workloads, record keeping,  
 23 and reporting; and  
 24 (3) use of citizen volunteers and public and private agencies.

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

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

30 **Chapter 2.5. Probation Improvement Fund**

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

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

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

- 37 **(1) Donations, gifts, and money received from any other**  
 38 **source, including transfers from other funds or accounts.**  
 39 **(2) Appropriations from the general assembly.**  
 40 **(3) Amounts deposited under IC 11-10-16-8.**

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



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

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

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

12 (1) promote the county probation department's adoption of  
13 best practices:

14 (A) to:

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

18 (ii) develop and use a progressive sanctions policy to  
19 guide decisions concerning how to respond to violations  
20 of conditions of supervision; and

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

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

27 (2) reduce the number of probation revocations:

28 (A) involving persons under the supervision of the county  
29 probation department who have been convicted of a  
30 felony; and

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

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

35 (1) on a form; and

36 (2) in the manner;

37 prescribed by the judicial conference of Indiana.

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

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

41 (1) may award a grant from the fund to a county that  
42 supervises persons who have been convicted of a felony to

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1           **consolidate and improve the efficiency of:**  
2           **(A) probation administration and services; and**  
3           **(B) community corrections programs;**  
4           **in the county; and**  
5           **(2) shall make the awarding of the grant contingent on the**  
6           **ability of the county probation department to demonstrate a**  
7           **minimal level of coordination with other offender supervision**  
8           **agencies operating in the same county, including community**  
9           **corrections programs, parole authorities, and other probation**  
10           **agencies.**  
11           **(b) To receive a grant under this section, a county must submit**  
12           **an application to the judicial conference of Indiana:**  
13           **(1) on a form; and**  
14           **(2) in the manner;**  
15           **prescribed by the judicial conference of Indiana.**  
16           **(c) The judicial conference of Indiana shall determine the**  
17           **amount of a grant awarded under this section.**  
18           **Sec. 5. The judicial conference of Indiana may adopt rules**  
19           **necessary to implement this chapter.**  
20           **Sec. 6. Counties may coordinate resources and programming**  
21           **with funds received under this chapter.**  
22           SECTION 7. IC 11-13-2.7 IS ADDED TO THE INDIANA CODE  
23           AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
24           JULY 1, 2012]:  
25           **Chapter 2.7. Forensic Addiction Fund**  
26           **Sec. 1. As used in this chapter, "fund" refers to the forensic**  
27           **addiction fund established by section 2 of this chapter.**  
28           **Sec. 2. (a) The forensic addiction fund is established to provide**  
29           **grants under section 3 of this chapter. The judicial conference of**  
30           **Indiana shall administer the fund.**  
31           **(b) Sources of money for the fund consist of the following:**  
32           **(1) Appropriations from the general assembly.**  
33           **(2) Donations, gifts, and money received from any other**  
34           **source, including transfers from other funds or accounts.**  
35           **(c) The expenses of administering the fund shall be paid from**  
36           **money in the fund.**  
37           **(d) The treasurer of state shall invest the money in the fund not**  
38           **currently needed to meet the obligations of the fund in the same**  
39           **manner as other public money may be invested. Interest that**  
40           **accrues from these investments shall be deposited in the fund.**  
41           **(e) Money in the fund at the end of a state fiscal year does not**  
42           **revert to the state general fund.**

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1 (f) Money in the fund is appropriated continuously for the  
2 purposes stated in section 3 of this chapter.

3 Sec. 3. (a) The judicial conference of Indiana may award a grant  
4 from the fund to a probation department or a community  
5 corrections program to increase substance abuse treatment access  
6 for individuals on probation or individuals placed in a community  
7 corrections program who are under court supervision and who  
8 have been diagnosed with a substance abuse disorder or  
9 co-occurring disorder.

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

14 (1) on a form; and

15 (2) in the manner;

16 prescribed by the judicial conference of Indiana.

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

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

25 Sec. 4. The judicial conference of Indiana may adopt rules  
26 necessary to implement this section.

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

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

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- 1 collection and consideration of:
- 2 (1) reports regarding the person's medical, psychological,
- 3 educational, vocational, employment, economic, and social
- 4 condition and history;
- 5 (2) official reports of the person's history of criminality;
- 6 (3) reports of earlier parole or probation experiences;
- 7 (4) reports concerning the person's present commitment that are
- 8 relevant to the parole release determination;
- 9 (5) any relevant information submitted by or on behalf of the
- 10 person being considered; and
- 11 (6) such other relevant information concerning the person as may
- 12 be reasonably available.

13 (c) Unless the victim has requested in writing not to be notified, the  
 14 department shall notify a victim of a felony (or the next of kin of the  
 15 victim if the felony resulted in the death of the victim) or any witness  
 16 involved in the prosecution of an offender imprisoned for the  
 17 commission of a felony when the offender is:

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

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

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

31 (d) The department shall make the notification required under  
 32 subsection (c):

- 33 **(1) not later than twenty-four (24) hours after the escape of a**
- 34 **committed offender;**
- 35 ~~(2) at least forty (40) days before: a~~
- 36 **(A) the discharge or release of a committed offender; or**
- 37 **(B) the date of a hearing occurs; concerning a committed**
- 38 **offender's possible discharge or release; and**
- 39 ~~(2) (3) if the date of a committed offender's discharge or~~
- 40 **release as referred to in subdivision (2)(A) is changed during**
- 41 **the forty (40) day notification period referred to in**
- 42 **subdivision (2), not later more than twenty-four (24) hours after**

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1 ~~the escape of a committed offender. forty-eight (48) hours after~~  
2 ~~the change in the discharge or release date.~~

3 The department shall supply the information to a victim (or a next of  
4 kin of a victim in the appropriate case) and a witness at the address  
5 supplied to the department by the victim (or next of kin) or witness. A  
6 victim (or next of kin) is responsible for supplying the department with  
7 any change of address or telephone number of the victim (or next of  
8 kin).

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

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

27 (g) The notice required under subsection (c) must specify whether  
28 the prisoner is being discharged, is being released on parole, is being  
29 released on lifetime parole, is having a parole release hearing, is having  
30 a parole violation hearing, or has escaped. The notice must contain the  
31 following information:

- 32 (1) The name of the prisoner.
- 33 (2) The date of the offense.
- 34 (3) The date of the conviction.
- 35 (4) The felony of which the prisoner was convicted.
- 36 (5) The sentence imposed.
- 37 (6) The amount of time served.
- 38 (7) The date and location of the interview (if applicable).

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

- 42 (1) nature and circumstances of the crime for which the offender

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- 1 is committed;
- 2 (2) offender's prior criminal record;
- 3 (3) offender's conduct and attitude during the commitment; and
- 4 (4) offender's parole plan.
- 5 (i) The hearing prescribed by this section may be conducted in an
- 6 informal manner without regard to rules of evidence. In connection
- 7 with the hearing, however:
  - 8 (1) reasonable, advance written notice, including the date, time,
  - 9 and place of the hearing shall be provided to the person being
  - 10 considered;
  - 11 (2) the person being considered shall be given access, in accord
  - 12 with IC 11-8-5, to records and reports considered by the parole
  - 13 board in making its parole release decision;
  - 14 (3) the person being considered may appear, speak in the person's
  - 15 own behalf, and present documentary evidence;
  - 16 (4) irrelevant, immaterial, or unduly repetitious evidence shall be
  - 17 excluded; and
  - 18 (5) a record of the proceeding, to include the results of the parole
  - 19 board's investigation, notice of the hearing, and evidence adduced
  - 20 at the hearing, shall be made and preserved.
- 21 (j) If parole is denied, the parole board shall give the person written
- 22 notice of the denial and the reasons for the denial. The parole board
- 23 may not parole a person if it determines that there is substantial reason
- 24 to believe that the person:
  - 25 (1) will engage in further specified criminal activity; or
  - 26 (2) will not conform to appropriate specified conditions of parole.
- 27 (k) If parole is denied, the parole board shall conduct another parole
- 28 release hearing not earlier than five (5) years after the date of the
- 29 hearing at which parole was denied. However, the board may conduct
- 30 a hearing earlier than five (5) years after denial of parole if the board:
  - 31 (1) finds that special circumstances exist for the holding of a
  - 32 hearing; and
  - 33 (2) gives reasonable notice to the person being considered for
  - 34 parole.
- 35 (l) The parole board may parole a person who is outside Indiana on
- 36 a record made by the appropriate authorities of the jurisdiction in
- 37 which that person is imprisoned.
- 38 (m) If the board is considering the release on parole of an offender
- 39 who is serving a sentence of life in prison, a determinate term of
- 40 imprisonment of at least ten (10) years, or an indeterminate term of
- 41 imprisonment with a minimum term of at least ten (10) years, in
- 42 addition to the investigation required under subsection (b), except as

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1 provided in subsection (n), the board may order and consider a  
2 community investigation, which may include an investigation and  
3 report that substantially reflects the attitudes and opinions of:

- 4 (1) the community in which the crime committed by the offender  
5 occurred;
- 6 (2) law enforcement officers who have jurisdiction in the  
7 community in which the crime occurred;
- 8 (3) the victim of the crime committed by the offender, or if the  
9 victim is deceased or incompetent for any reason, the victim's  
10 relatives or friends; and
- 11 (4) friends or relatives of the offender.

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

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

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

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

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

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

- 41 (1) If ordered by a physician who has obtained a health care  
42 consent under IC 16-36-1 or an implied consent under emergency

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

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

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- 1 (3) Order the child to surrender the child's driver's license to the
- 2 court for a specified period of time.
- 3 (4) Order the child to pay restitution if the victim provides
- 4 reasonable evidence of the victim's loss, which the child may
- 5 challenge at the dispositional hearing.
- 6 (5) Partially or completely emancipate the child under section 27
- 7 of this chapter.
- 8 (6) Order the child to attend an alcohol and drug services program
- 9 established under IC 12-23-14.
- 10 (7) Order the child to perform community restitution or service
- 11 for a specified period of time.
- 12 (8) Order wardship of the child as provided in section 9 of this
- 13 chapter.

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

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

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

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- 1 (C) The work accomplished by the courts.
- 2 (D) The receipt and expenditure of public money by and for
- 3 the operation of the courts.
- 4 (E) The methods of disposition or termination of cases.
- 5 **(F) Each year after 2013, the number of offenders**
- 6 **convicted of Class D felonies in each county in the previous**
- 7 **calendar year.**
- 8 (3) Prepare and publish reports, not less than one (1) or more than
- 9 two (2) times per year, on the nature and volume of judicial work
- 10 performed by the courts as determined by the information
- 11 required in subdivision ~~(2)~~ **(2)(A) through (2)(E). Information**
- 12 **collected under subdivision (2)(F) shall be submitted to the**
- 13 **department of correction on or before May 1 of each year.**
- 14 (4) Serve the judicial nominating commission and the judicial
- 15 qualifications commission in the performance by the commissions
- 16 of their statutory and constitutional functions.
- 17 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 18 (6) Administer the judicial technology and automation project
- 19 fund established by section 12 of this chapter.
- 20 (7) Develop a standard protocol for the exchange of information,
- 21 by not later than December 31, 2009:
- 22 (A) between the protective order registry, established by
- 23 IC 5-2-9-5.5, and county court case management systems;
- 24 (B) at the option of the county prosecuting attorney, for:
- 25 (i) a prosecuting attorney's case management system;
- 26 (ii) a county court case management system; and
- 27 (iii) a county court case management system developed and
- 28 operated by the division of state court administration;
- 29 to interface with the electronic traffic tickets, as defined by
- 30 IC 9-30-3-2.5; and
- 31 (C) between county court case management systems and the
- 32 case management system developed and operated by the
- 33 division of state court administration.
- 34 (8) Establish and administer an electronic system for receiving
- 35 information that relates to certain individuals who may be
- 36 prohibited from possessing a firearm and transmitting this
- 37 information to the Federal Bureau of Investigation for inclusion
- 38 in the NICS.
- 39 (b) All forms to be used in gathering data must be approved by the
- 40 supreme court and shall be distributed to all judges and clerks before
- 41 the start of each period for which reports are required.
- 42 (c) The division may adopt rules to implement this section.

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1 SECTION 13. IC 35-38-1-7.8 IS ADDED TO THE INDIANA  
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2012]: **Sec. 7.8. (a) At the time of sentencing,**  
 4 **a court shall determine whether a person is a credit restricted felon**  
 5 **(as defined in IC 35-41-1-5.5).**

6 **(b) A determination under subsection (a) must be based upon:**

7 **(1) evidence admitted at trial that is relevant to the credit**  
 8 **restricted status;**

9 **(2) evidence introduced at the sentencing hearing; or**

10 **(3) a factual basis provided as part of a guilty plea.**

11 **(c) Upon determining that a defendant is a credit restricted**  
 12 **felon, a court shall advise the defendant of the consequences of this**  
 13 **determination.**

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

23 **(1) each offense the person is convicted of;**

24 **(2) the sentence, including whether the sentence includes a**  
 25 **suspended sentence, probation, or direct commitment to**  
 26 **community corrections; and**

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

28 **(b) If a person convicted of a felony is committed to the**  
 29 **department of correction by a court as a result of a violation of the**  
 30 **terms of probation or other community placement, the court shall**  
 31 **state in the abstract of judgment the specific reasons for revocation**  
 32 **if probation, parole, or a community corrections placement has**  
 33 **been revoked.**

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

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

41 **(2) Undergo available medical or psychiatric treatment and**  
 42 **remain in a specified institution if required for that purpose.**



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

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

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1 before the earlier of the following:

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

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

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

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

16 (1) the term of imprisonment;

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

19 (3) the conditions.

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

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

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

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

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

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

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

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

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

38 **(h) If a court imposes a condition of probation described in**  
39 **subsection (a)(4), the person on probation is responsible for any**  
40 **costs resulting from the participation in a program, class, or**  
41 **service. Any costs collected for services provided by the probation**  
42 **department shall be deposited in the county or local supplemental**

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1 **adult services fund.**

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

6 (1) the person has violated a condition of probation during the  
7 probationary period; and

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

23           (1) reinstate the person's probationary period, with or without  
 24 enlarging the conditions, if the sum of the length of the original  
 25 probationary period and the reinstated probationary period does  
 26 not exceed the length of the maximum sentence allowable for the  
 27 offense that is the basis of the probation; or

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

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

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

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

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

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

41           ~~(m)~~ **(n)** Failure to pay fees or costs assessed against a person under  
 42 IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for

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- 1 revocation of probation.
- 2 SECTION 17. IC 35-50-6-3.3, AS AMENDED BY P.L.228-2011,  
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2012]: Sec. 3.3. (a) In addition to any credit time a person  
5 earns under subsection (b) or section 3 of this chapter, a person earns  
6 credit time if the person:
- 7 (1) is in credit Class I;
  - 8 (2) has demonstrated a pattern consistent with rehabilitation; and
  - 9 (3) successfully completes requirements to obtain one (1) of the  
10 following:
    - 11 (A) A general educational development (GED) diploma under  
12 IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person  
13 has not previously obtained a high school diploma.
    - 14 (B) Except as provided in subsection (n), a high school  
15 diploma, if the person has not previously obtained a general  
16 educational development (GED) diploma.
    - 17 (C) An associate's degree from an approved postsecondary  
18 educational institution (as defined under IC 21-7-13-6(a)).
    - 19 (D) A bachelor's degree from an approved postsecondary  
20 educational institution (as defined under IC 21-7-13-6(a)).
  - 21 (b) In addition to any credit time that a person earns under  
22 subsection (a) or section 3 of this chapter, a person may earn credit  
23 time if, while confined by the department of correction, the person:
    - 24 (1) is in credit Class I;
    - 25 (2) demonstrates a pattern consistent with rehabilitation; and
    - 26 (3) successfully completes requirements to obtain at least one (1)  
27 of the following:
      - 28 (A) A certificate of completion of a career and technical  
29 education program approved by the department of correction.
      - 30 (B) A certificate of completion of a substance abuse program  
31 approved by the department of correction.
      - 32 (C) A certificate of completion of a literacy and basic life  
33 skills program approved by the department of correction.
      - 34 (D) A certificate of completion of a reformatory program  
35 approved by the department of correction.
    - 36 (c) The department of correction shall establish admissions criteria  
37 and other requirements for programs available for earning credit time  
38 under subsection (b). A person may not earn credit time under both  
39 subsections (a) and (b) for the same program of study.
    - 40 (d) The amount of credit time a person may earn under this section  
41 is the following:
      - 42 (1) Six (6) months for completion of a state of Indiana general

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- 1 educational development (GED) diploma under IC 20-20-6
- 2 (before its repeal) or IC 22-4.1-18.
- 3 (2) One (1) year for graduation from high school.
- 4 (3) One (1) year for completion of an associate's degree.
- 5 (4) Two (2) years for completion of a bachelor's degree.
- 6 (5) Not more than a total of six (6) months of credit, as
- 7 determined by the department of correction, for the completion of
- 8 one (1) or more career and technical education programs
- 9 approved by the department of correction.
- 10 (6) Not more than a total of six (6) months of credit, as
- 11 determined by the department of correction, for the completion of
- 12 one (1) or more substance abuse programs approved by the
- 13 department of correction.
- 14 (7) Not more than a total of six (6) months credit, as determined
- 15 by the department of correction, for the completion of one (1) or
- 16 more literacy and basic life skills programs approved by the
- 17 department of correction.
- 18 (8) Not more than a total of six (6) months credit time, as
- 19 determined by the department of correction, for completion of one
- 20 (1) or more reformatory programs approved by the department of
- 21 correction. However, a person who is serving a sentence for an
- 22 offense listed under IC 11-8-8-4.5 may not earn credit time under
- 23 this subdivision.
- 24 However, a person who does not have a substance abuse problem that
- 25 qualifies the person to earn credit in a substance abuse program may
- 26 earn not more than a total of twelve (12) months of credit, as
- 27 determined by the department of correction, for the completion of one
- 28 (1) or more career and technical education programs approved by the
- 29 department of correction. If a person earns more than six (6) months of
- 30 credit for the completion of one (1) or more career and technical
- 31 education programs, the person is ineligible to earn credit for the
- 32 completion of one (1) or more substance abuse programs.
- 33 (e) Credit time earned by a person under this section is subtracted
- 34 from the release date that would otherwise apply to the person after
- 35 subtracting all other credit time earned by the person.
- 36 (f) A person does not earn credit time under subsection (a) unless
- 37 the person completes at least a portion of the degree requirements after
- 38 June 30, 1993.
- 39 (g) A person does not earn credit time under subsection (b) unless
- 40 the person completes at least a portion of the program requirements
- 41 after June 30, 1999.
- 42 (h) Credit time earned by a person under subsection (a) for a

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1 diploma or degree completed before July 1, 1999, shall be subtracted  
2 from:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (1) four (4) years; or

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

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

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

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

38 (k) A person may earn credit time for multiple degrees at the same  
39 education level under subsection (d) only in accordance with guidelines  
40 approved by the department of correction. The department of  
41 correction may approve guidelines for proper sequence of education  
42 degrees under subsection (d).



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1 (l) A person may not earn credit time:  
 2 (1) for a general educational development (GED) diploma if the  
 3 person has previously earned a high school diploma; or  
 4 (2) for a high school diploma if the person has previously earned  
 5 a general educational development (GED) diploma.  
 6 (m) A person may not earn credit time under this section if the  
 7 person:  
 8 (1) commits an offense listed in IC 11-8-8-4.5 while the person is  
 9 required to register as a sex or violent offender under IC 11-8-8-7;  
 10 and  
 11 (2) is committed to the department of correction after being  
 12 convicted of the offense listed in IC 11-8-8-4.5.  
 13 (n) For a person to earn credit time under subsection (a)(3)(B) for  
 14 successfully completing the requirements for a high school diploma  
 15 through correspondence courses, each correspondence course must be  
 16 approved by the department before the person begins the  
 17 correspondence course. The department may approve a correspondence  
 18 course only if the entity administering the course is recognized and  
 19 accredited by the department of education in the state where the entity  
 20 is located.  
 21 SECTION 18. IC 36-2-21 IS ADDED TO THE INDIANA CODE  
 22 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2012]:  
 24 **Chapter 21. County Offender Fund**  
 25 **Sec. 1. Each county shall establish, by resolution, a county**  
 26 **offender fund to redistribute incentives received under IC 11-10-16**  
 27 **to:**  
 28 (1) programs that defray the expense of housing an offender  
 29 in jail;  
 30 (2) probation programs;  
 31 (3) work release programs;  
 32 (4) community corrections programs;  
 33 (5) problem solving courts; and  
 34 (6) substance abuse treatment programs.  
 35 **Sec. 2. Money in a county offender fund established under**  
 36 **section 1 of this chapter may be spent only under an appropriation**  
 37 **from the county fiscal body.**  
 38 SECTION 19. An emergency is declared for this act.

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## COMMITTEE REPORT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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the department in a one (1) year period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**STEP ONE:** For each county, determine:

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

**STEP TWO:** Determine the quotient of:

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

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**(B) the number of counties in Indiana.**

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

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

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

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

**(A) the STEP ONE number; by**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

(A) approve a permanency plan for the child;

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

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

(D) find whether it:

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

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

(c) If a dispositional decree under this section:

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

(A) person other than the department; or

(B) shelter care facility; and

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

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

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

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

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

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

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

(2) Order the child to receive outpatient treatment:

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

(B) from an individual practitioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Delete pages 13 through 20.

Page 21, delete lines 1 through 37.

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

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

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

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

Page 22, delete lines 7 through 12.

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

Page 22, delete line 18.

Page 22, line 19, delete "and".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the conditions of probation; and

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

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

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

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

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

(1) the term of imprisonment;

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

(3) the conditions.

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

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

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

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

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

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

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

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

to provide a DNA sample as a condition of probation.

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

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

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

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

**Chapter 21. County Offender Fund**

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

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

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

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1011 as introduced.)

STEUERWALD, Chair

Committee Vote: yeas 11, nays 0.

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