

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 262**

Citations Affected: Numerous citations throughout the Indiana Code.

Synopsis: IC 4 and IC 5 code revision. Conference committee report for ESB 262. Reorganizes certain crimes relating to state and local administration by: (1) relocating and renumbering crimes currently codified as offenses against public administration (IC 35-44) into a new article and repealing IC 35-44; and (2) relocating certain other crimes codified in IC 4 and IC 5 into the criminal code. Repeals redundant provisions. Repeals a provision adopted in 1855 prohibiting certain governmental officers from recklessly lending more money than they are authorized to lend. Exempts from the conflict of interest statute a physician employed or contracted by a hospital. Makes the disclosure of certain confidential information a Class A infraction (under current law the disclosure of certain confidential information is a Class A misdemeanor). Makes technical corrections. **(This conference committee report: Specifies that a provision applying to the department of child service's ICWIS computer system also applies to any successor system. Resolves conflicts with SB 26 and HEA 1207. Exempts from the conflict of interest statute a physician employed or contracted by a hospital. Makes the disclosure of certain confidential information a Class A infraction. Adds a noncode SECTION providing that the general assembly intended to repeal the tobacco farmers and rural community impact fund in HEA 1002-2012 and that the repeal takes precedence over an amendment to the tobacco farmers and rural community impact fund by SEA 127-2012.)**

Effective: July 1, 2012.

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| Adopted | Rejected |
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CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 262 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 4-2-6-4, AS AMENDED BY P.L.89-2006,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 4. (a) The commission may do any of the
5 following:
6 (1) Upon a vote of four (4) members, refer any matter within the
7 inspector general's authority to the inspector general for
8 investigation.
9 (2) Receive and hear any complaint filed with the commission by
10 the inspector general that alleges a violation of:
11 (A) this chapter;
12 (B) a rule adopted under this chapter;
13 (C) IC 4-2-7;
14 (D) a rule adopted under IC 4-2-7;
15 (E) IC 4-2-8; or
16 (F) a rule adopted under IC 4-2-8.
17 (3) Obtain information and, upon a vote of four (4) members,
18 compel the attendance and testimony of witnesses and the
19 production of pertinent books and papers by a subpoena
20 enforceable by the circuit or superior court of the county where
21 the subpoena is to be issued.
22 (4) Recommend legislation to the general assembly relating to the

- 1 conduct and ethics of state officers, employees, special state
2 appointees, and persons who have business relationships with
3 agencies.
- 4 (5) Adopt rules under IC 4-22-2 to implement this chapter.
- 5 (6) Accept and file information:
- 6 (A) voluntarily supplied; and
- 7 (B) that exceeds the requirements of this chapter.
- 8 (7) Conduct research.
- 9 (b) The commission shall do the following:
- 10 (1) Act as an advisory body by issuing advisory opinions to
11 interpret this chapter, IC 4-2-7, or the rules adopted under this
12 chapter or IC 4-2-7, upon:
- 13 (A) request of:
- 14 (i) a state officer or a former state officer;
- 15 (ii) an employee or a former employee;
- 16 (iii) a person who has or had a business relationship with an
17 agency;
- 18 (iv) a special state appointee or former special state
19 appointee; or
- 20 (v) the inspector general; or
- 21 (B) motion of the commission.
- 22 (2) Conduct its proceedings in the following manner:
- 23 (A) When a complaint is filed with the commission, the
24 commission may:
- 25 (i) reject, without further proceedings, a complaint that the
26 commission considers frivolous or inconsequential;
- 27 (ii) reject, without further proceedings, a complaint that the
28 commission is satisfied has been dealt with appropriately by
29 an agency;
- 30 (iii) upon the vote of four (4) members, determine that the
31 complaint does not allege facts sufficient to constitute a
32 violation of this chapter or the code of ethics and dismiss the
33 complaint; or
- 34 (iv) forward a copy of the complaint to the attorney general,
35 the prosecuting attorney of the county in which the alleged
36 violation occurred, the state board of accounts, a state
37 officer, the appointing authority, or other appropriate person
38 for action, and stay the commission's proceedings pending
39 the other action.
- 40 (B) If a complaint is not disposed of under clause (A), a copy
41 of the complaint shall be sent to the person alleged to have
42 committed the violation.
- 43 (C) If the complaint is not disposed of under clause (A), the
44 commission may promptly refer the alleged violation for
45 additional investigation by the inspector general. If the
46 commission finds by a majority vote that probable cause exists
47 to support an alleged violation, it shall set a public hearing on
48 the matter. The respondent shall be notified within fifteen (15)
49 days of the commission's determination. Except as provided in
50 this section, the commission's evidence relating to an

- 1 investigation is confidential.
- 2 (D) A complaint filed with the commission is open for public
3 inspection after the commission finds that probable cause
4 exists. However, a complaint filed by the inspector general that
5 contains confidential information under IC 4-2-7-8 may be
6 redacted to exclude the confidential information. Every
7 hearing and other proceeding in which evidence is received by
8 the commission is open to the public. Investigative reports by
9 the inspector general that are not filed with the commission
10 may be kept confidential.
- 11 (E) A:
- 12 (i) complaint that is filed with; or
13 (ii) proceeding that is held by;
14 the commission before the commission has found probable
15 cause is confidential unless the target of the investigation
16 elects to have information disclosed, or the commission elects
17 to respond to public statements by the person who filed the
18 complaint.
- 19 (F) The commission may acknowledge:
- 20 (i) the existence and scope of an investigation before the
21 finding of probable cause; or
22 (ii) that the commission did not find probable cause to
23 support an alleged violation.
- 24 (G) If a hearing is to be held, the respondent may examine and
25 make copies of all evidence in the commission's possession
26 relating to the charges. At the hearing, the charged party shall
27 be afforded appropriate due process protection consistent with
28 IC 4-21.5, including the right to be represented by counsel, the
29 right to call and examine witnesses, the right to introduce
30 exhibits, and the right to cross-examine opposing witnesses.
- 31 (H) After the hearing, the commission shall state its findings
32 of fact. If the commission, based on a preponderance of the
33 evidence, finds by a majority vote that the respondent has
34 violated this chapter, IC 4-2-7, IC 4-2-8, or a rule adopted
35 under this chapter, IC 4-2-7, or IC 4-2-8, it shall state its
36 findings in writing in a report, which shall be supported and
37 signed by a majority of the commission members and shall be
38 made public.
- 39 (I) If the commission, based on a preponderance of the
40 evidence, finds by a majority vote a violation of this chapter,
41 IC 4-2-7, IC 4-2-8, or a rule adopted under this chapter,
42 IC 4-2-7, or IC 4-2-8, the commission may also take any of the
43 actions provided in section 12 of this chapter.
- 44 (J) The report required under clause (H) shall be presented to:
- 45 (i) the respondent;
46 (ii) the appointing authority or state officer of the employee,
47 former employee, or special state appointee;
48 (iii) the appointing authority or state officer of an agency or
49 office that has a business relationship with the person
50 sanctioned; and

- 1 (iv) the governor.
- 2 (K) The commission may also forward the report to any of the
- 3 following:
- 4 (i) The prosecuting attorney of each county in which the
- 5 violation occurred.
- 6 (ii) The state board of accounts.
- 7 (iii) The state personnel director.
- 8 (iv) The attorney general.
- 9 (v) A state officer.
- 10 (vi) The appointing authority of the state employee or
- 11 agency that has a business relationship with the person
- 12 sanctioned.
- 13 (vii) Any other appropriate person.
- 14 (L) If the commission finds the respondent has not violated a
- 15 code or statutory provision or a rule adopted under this
- 16 chapter, IC 4-2-7, or IC 4-2-8, it shall dismiss the charges.
- 17 (3) Review all conflict of interest disclosures received by the
- 18 commission under ~~IC 35-44-1-3~~, **IC 35-44.1-1-4**, maintain an
- 19 index of those disclosures, and issue advisory opinions and
- 20 screening procedures as set forth in section 9 of this chapter.
- 21 (c) Notwithstanding IC 5-14-3-4(b)(8)(C), the records of the
- 22 commission concerning the case of a respondent that are not
- 23 confidential under IC 5-14-3-4(b)(2)(C) shall be available for
- 24 inspection and copying in accordance with IC 5-14-3.
- 25 SECTION 2. IC 4-2-6-13, AS AMENDED BY P.L.89-2006,
- 26 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 27 JULY 1, 2012]: Sec. 13. (a) Except as provided in subsection (b), a
- 28 state officer, an employee, or a special state appointee shall not
- 29 retaliate or threaten to retaliate against an employee, a former
- 30 employee, a special state appointee, or a former special state appointee
- 31 because the employee, former employee, special state appointee, or
- 32 former special state appointee did any of the following:
- 33 (1) Filed a complaint with the commission or the inspector
- 34 general.
- 35 (2) Provided information to the commission or the inspector
- 36 general.
- 37 (3) Testified at a commission proceeding.
- 38 (b) A state officer, an employee, or a special state appointee may
- 39 take appropriate action against an employee who took any of the
- 40 actions listed in subsection (a) if the employee or special state
- 41 appointee:
- 42 (1) did not act in good faith; or
- 43 (2) knowingly or recklessly provided false information or
- 44 testimony to the commission.
- 45 (c) A person who violates this section is subject to action under
- 46 section 12 of this chapter **and criminal prosecution under**
- 47 **IC 35-44.2-1-2.**
- 48 (d) ~~A person who knowingly or intentionally violates this section~~
- 49 ~~commits a Class A misdemeanor. In addition to any criminal penalty~~
- 50 ~~imposed under IC 35-50-3, a person who commits a misdemeanor~~

1 ~~under this section is subject to action under section 12 of this chapter.~~

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

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

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

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

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

15 (D) Make, present, or use a false record, document, or thing
16 with the intent that the record, document, or thing appear in a
17 commission proceeding or investigation to mislead a
18 commissioner or commission employee.

19 (2) Alter, damage, or remove a record, document, or thing except
20 as permitted or required by law, with the intent to prevent the
21 record, document, or thing from being produced or used in a
22 commission proceeding or investigation conducted by the
23 inspector general.

24 (3) Make, present, or use a false record, document, or thing with
25 the intent that the record, document, or thing appear in a
26 commission proceeding or investigation to mislead a
27 commissioner or commission employee.

28 (b) A person who ~~knowingly or intentionally~~ violates subsection (a)
29 ~~commits a Class A misdemeanor. is subject to criminal prosecution~~
30 **under IC 35-44.2-1-3.**

31 SECTION 4. IC 4-2-7-3, AS AMENDED BY P.L.1-2007,
32 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2012]: Sec. 3. The inspector general shall do the following:

34 (1) Initiate, supervise, and coordinate investigations.

35 (2) Recommend policies and carry out other activities designed to
36 deter, detect, and eradicate fraud, waste, abuse, mismanagement,
37 and misconduct in state government.

38 (3) Receive complaints alleging the following:

39 (A) A violation of the code of ethics.

40 (B) Bribery (~~IC 35-44-1-1~~): **(IC 35-44.1-1-2).**

41 (C) Official misconduct (~~IC 35-44-1-2~~): **(IC 35-44.1-1-1).**

42 (D) Conflict of interest (~~IC 35-44-1-3~~): **(IC 35-44.1-1-4).**

43 (E) Profiteering from public service (~~IC 35-44-1-7~~): **(IC**
44 **35-44.1-1-5).**

45 (F) A violation of the executive branch lobbying rules.

46 (G) A violation of a statute or rule relating to the purchase of
47 goods or services by a current or former employee, state
48 officer, special state appointee, lobbyist, or person who has a
49 business relationship with an agency.

50 (4) If the inspector general has reasonable cause to believe that a

- 1 crime has occurred or is occurring, report the suspected crime to:
- 2 (A) the governor; and
- 3 (B) appropriate state or federal law enforcement agencies and
- 4 prosecuting authorities having jurisdiction over the matter.
- 5 (5) Adopt rules under IC 4-22-2 to implement IC 4-2-6 and this
- 6 chapter.
- 7 (6) Adopt rules under IC 4-22-2 and section 5 of this chapter to
- 8 implement a code of ethics.
- 9 (7) Ensure that every:
- 10 (A) employee;
- 11 (B) state officer;
- 12 (C) special state appointee; and
- 13 (D) person who has a business relationship with an agency;
- 14 is properly trained in the code of ethics.
- 15 (8) Provide advice to an agency on developing, implementing,
- 16 and enforcing policies and procedures to prevent or reduce the
- 17 risk of fraudulent or wrongful acts within the agency.
- 18 (9) Recommend legislation to the governor and general assembly
- 19 to strengthen public integrity laws, including the code of ethics
- 20 for state officers, employees, special state appointees, and persons
- 21 who have a business relationship with an agency, including
- 22 whether additional specific state officers, employees, or special
- 23 state appointees should be required to file a financial disclosure
- 24 statement under IC 4-2-6-8.
- 25 (10) Annually submit a report to the legislative council detailing
- 26 the inspector general's activities. The report must be in an
- 27 electronic format under IC 5-14-6.
- 28 (11) Prescribe and provide forms for statements required to be
- 29 filed under IC 4-2-6 or this chapter.
- 30 (12) Accept and file information that:
- 31 (A) is voluntarily supplied; and
- 32 (B) exceeds the requirements of this chapter.
- 33 (13) Inspect financial disclosure forms.
- 34 (14) Notify persons who fail to file forms required under IC 4-2-6
- 35 or this chapter.
- 36 (15) Develop a filing, a coding, and an indexing system required
- 37 by IC 4-2-6 and ~~IC 35-44-1-3~~. **IC 35-44.1-1.**
- 38 (16) Prepare interpretive and educational materials and programs.
- 39 SECTION 5. IC 4-2-7-6, AS ADDED BY P.L.222-2005, SECTION
- 40 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 41 2012]: Sec. 6. (a) This section applies if the inspector general finds
- 42 evidence of misfeasance, malfeasance, nonfeasance, misappropriation,
- 43 fraud, or other misconduct that has resulted in a financial loss to the
- 44 state or in an unlawful benefit to an individual in the conduct of state
- 45 business.
- 46 (b) If the inspector general finds evidence described in subsection
- 47 (a), the inspector general shall certify a report of the matter to the
- 48 attorney general and provide the attorney general with any relevant
- 49 documents, transcripts, or written statements. Not later than one
- 50 hundred eighty (180) days after receipt of the report from the inspector

1 general, the attorney general shall do one (1) of the following:

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

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

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

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

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

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

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

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

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

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

50 (1) Actions in which a person is accused of committing, while a
51 member of an unlawful assembly as defined in IC 35-45-1-1, a

1 homicide (IC 35-42-1).
 2 (2) Actions in which a person is accused of assisting a criminal
 3 ~~(IC 35-44-3-2 (IC 35-44.1-2-5),~~ if the person alleged to have been
 4 assisted is a person described in subdivision (1). ~~of this section.~~
 5 (3) Actions in which a sheriff is accused of any offense that
 6 involves a failure to protect the life of a prisoner in the sheriff's
 7 custody.

8 SECTION 7. IC 4-6-3-2, AS AMENDED BY P.L.111-2009,
 9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2012]: Sec. 2. (a) The attorney general shall have charge of
 11 and direct the prosecution of all civil actions that are brought in the
 12 name of the state of Indiana or any state agency.
 13 (b) In no instance under this section shall the state or a state agency
 14 be required to file a bond.
 15 (c) This section does not affect the authority of prosecuting
 16 attorneys to prosecute civil actions.
 17 (d) This section does not affect the authority of the inspector general
 18 to prosecute a civil action under IC 4-2-7-6 for the recovery of **any of**
 19 **the following:**
 20 (1) Funds misappropriated, diverted, missing, or unlawfully
 21 gained.
 22 (2) **A civil penalty imposed by the state ethics commission**
 23 **under IC 4-2-6-12.**
 24 (e) The attorney general may bring an action to collect unpaid
 25 registration fees owed by a commercial dog broker or a commercial
 26 dog breeder under IC 15-21.

27 SECTION 8. IC 4-11-1-6 IS REPEALED [EFFECTIVE JULY 1,
 28 2012]. ~~Sec. 6: An officer who recklessly lends to any person a greater~~
 29 ~~amount of funds than he is authorized by law to lend commits a Class~~
 30 ~~B misdemeanor.~~

31 SECTION 9. IC 4-13-1.2-11 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. A person who
 33 **interferes with the ombudsman is subject to criminal prosecution**
 34 **under IC 35-44.2-1-4.**
 35 (1) ~~intentionally interferes with or prevents the completion of the~~
 36 ~~work of the ombudsman;~~
 37 (2) ~~knowingly offers compensation to the ombudsman in an effort~~
 38 ~~to affect the outcome of an investigation or a potential~~
 39 ~~investigation;~~
 40 (3) ~~knowingly or intentionally retaliates against an offender or~~
 41 ~~another person who provides information to the ombudsman; or~~
 42 (4) ~~makes threats because of an investigation or potential~~
 43 ~~investigation against the ombudsman; a person who has filed a~~
 44 ~~complaint; or a person who provides information to the~~
 45 ~~ombudsman;~~
 46 ~~commits a Class A misdemeanor.~~

47 SECTION 10. IC 4-13-4.1-4 IS REPEALED [EFFECTIVE JULY
 48 1, 2012]. Sec. 4: (a) Neither the commissioner of the department of
 49 administration nor any employee of his department may be financially
 50 interested or have any personal beneficial interest in the purchase of

1 any printing, lithographing, paper, binding, stationery, printing
2 materials, or office supplies.

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

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

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

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

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

19 (4) knowingly or intentionally threatens an ombudsman, a person
20 who has filed a complaint, or a person who provides information
21 to an ombudsman, because of an investigation or potential
22 investigation;

23 commits interference with the office of the department of child services
24 ombudsman, a Class A misdemeanor.

25 (b) Expungement of records held by the department of child services
26 that occurs by statutory mandate, judicial order or decree,
27 administrative review or process, automatic operation of the Indiana
28 Child Welfare Information System (ICWIS) computer system, or in the
29 normal course of business shall not be considered intentional
30 interference or prevention for the purposes of subsection (a):

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

35 (1) a violation of a federal law or regulation;

36 (2) a violation of a state law or rule;

37 (3) a violation of an ordinance of a political subdivision (as
38 defined in IC 36-1-2-13); or

39 (4) the misuse of public resources;

40 to a supervisor or to the inspector general.

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

43 (1) be dismissed from employment;

44 (2) have salary increases or employment related benefits
45 withheld;

46 (3) be transferred or reassigned;

47 (4) be denied a promotion the employee otherwise would have
48 received; or

49 (5) be demoted.

50 (c) Notwithstanding subsections (a) and (b), an employee must

1 make a reasonable attempt to ascertain the correctness of any
 2 information to be furnished and may be subject to disciplinary actions
 3 for knowingly furnishing false information, including suspension or
 4 dismissal, as determined by the employee's appointing authority, the
 5 appointing authority's designee, or the ethics commission. However,
 6 any state employee disciplined under this subsection is entitled to
 7 process an appeal of the disciplinary action under the procedure as set
 8 forth in ~~IC 4-15-2-34 through IC 4-15-2-35.5~~. **IC 4-15-2.2-42.**

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

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

14 (1) cannot speak or understand the English language or who
 15 because of hearing, speaking, or other impairment has difficulty
 16 in communicating with other persons; and

17 (2) is a party or witness in any proceeding under this article;

18 is entitled to an interpreter to assist the person throughout the
 19 proceeding under this article.

20 (b) The interpreter may be retained by the person or may be
 21 appointed by the agency before which the proceeding is pending. If an
 22 interpreter is appointed by the agency, the fee for the services of the
 23 interpreter shall be set by the agency. The fee shall be paid from any
 24 funds available to the agency or be paid in any other manner ordered
 25 by the agency.

26 (c) Any agency may inquire into the qualifications and integrity of
 27 any interpreter and may disqualify any person from serving as an
 28 interpreter.

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

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

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

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

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

48 (c) In addition to the powers and duties vested under subsection (a),
 49 a gaming agent may act as an officer for the arrest of offenders who
 50 violate the laws of Indiana if the gaming agent reasonably believes that

1 a crime has been, is being, or is about to be committed or attempted in
2 the gaming agent's presence.

3 SECTION 15. IC 5-4-1-19 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. The bonds
5 prescribed by IC 5-4-1-18 cover the faithful performance of the duties
6 of the officer or employee, including the duty to comply with
7 ~~IC 35-44-1-2~~ **IC 35-44.1-1-1** and the duty to account properly for all
8 monies and property received by virtue of ~~his~~ **the officer's** position or
9 employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 SECTION 18. IC 5-11-6-1, AS AMENDED BY P.L.176-2009,
49 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
50 JULY 1, 2012]: Sec. 1. (a) The state examiner, personally or through

1 the deputy examiners, field examiners, or private examiners, upon the
2 petition of twenty-five (25) interested taxpayers showing that effective
3 local relief has not and cannot be obtained after due effort, shall make
4 the inquiries, tests, examinations, and investigations that may be
5 necessary to determine whether:

6 (1) any public contract has been regularly and lawfully executed
7 and performed; or

8 (2) any public work, building, or structure has been or is being
9 performed, built, or constructed in accordance with the terms and
10 provisions of the contract, and in compliance with the plans and
11 specifications, if any.

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

16 (b) The state examiner, deputy examiner, and any field examiner,
17 when engaged in making an inquiry, test, examination, or investigation
18 under subsection (a), is entitled to examine and inspect any public
19 records, documents, data, contracts, plans, and specifications contained
20 or found in any public office or other place pertaining or relating to the
21 public contract or public work, building, or structure. In addition,
22 subpoenas may be issued to witnesses to appear before the examiner in
23 person or to produce books and papers for inspection and examination.
24 The state examiner, deputy, field, and private examiner may administer
25 oaths and examine witnesses under oath either orally or by
26 interrogatories on all matters under examination and investigation.
27 Under order of the state examiner, the examination may be transcribed,
28 with the reasonable expense paid by the municipality in the same
29 manner as the compensation of the field examiner is paid.

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

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

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

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

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

50 that causes loss, injury, waste, or damage to the state, the municipality,

1 taxing or assessment district, other public entity, or to its citizens, if it
2 is enforceable by assessment or taxation.

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

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

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

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

9 (g) The attorney general shall diligently institute and prosecute civil
10 proceedings against any or all officers, individuals, and persons in the
11 form and manner that the attorney general determines will secure a
12 proper recovery to the state, municipality, taxing or assessment district,
13 or other public entity injured, defrauded, or damaged by the matters in
14 the report. These prosecutions may be made by the attorney general and
15 the recovery may be had, either upon public official bonds, contractors'
16 bonds, surety or other bonds, or upon individual liability, either upon
17 contract or in tort, as the attorney general determines is wise. No action
18 or recovery in any form or manner, or against any party or parties,
19 precludes further or additional action or recovery in any other form or
20 manner or against another party, either concurrently with or later found
21 necessary, to secure complete recovery and restitution with respect to
22 all matters exhibited, set out, or described in the report. The suits may
23 be brought in the name of the state on the relation of the attorney
24 general for the benefit of the state, or the municipality, taxing or
25 assessment district, or other public entity that may be proper. The
26 actions brought against any defendants may be joined, as to parties,
27 form, and causes of action, in the manner that the attorney general
28 decides.

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

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

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

48 (1) A substantial amount of public funds has been
49 misappropriated or diverted.

50 (2) The deputy examiner, field examiner, or private examiner

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

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

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

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

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

23 (1) malfeasance, misfeasance, or nonfeasance in office, or of any
 24 officer or employee;

25 (2) that any public money has been:
 26 (A) unlawfully expended, either by having been expended for
 27 a purpose not authorized by law in an amount exceeding that
 28 authorized by law, or by having been paid to a person not
 29 lawfully entitled to receive it; or

30 (B) obtained by fraud or in any unlawful manner; or

31 (3) that any money has been wrongfully withheld from the public
 32 treasury;

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

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

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

44 (1) keep a cashbook into which the public officer shall enter daily,
 45 by item, all receipts of public funds; and

46 (2) balance the cashbook daily to show funds on hand at the close
 47 of each day.

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

50 (c) **A person who violates this section is subject to criminal**

1 **prosecution under IC 35-44.2-2-2.**

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

7 (1) fails to deposit public funds; or

8 (2) deposits or draws any check or negotiable order of withdrawal
9 against the funds;

10 except in the manner prescribed in this article; commits a Class A
11 misdemeanor. However, the offense is a Class D felony if the amount
12 involved is at least seven hundred fifty dollars (\$750); and a Class C
13 felony if the amount involved is at least fifty thousand dollars
14 (\$50,000). The public servant also is liable upon the public servant's
15 official bond for any loss or damage that ~~may accrue~~: **accrues.**

16 SECTION 23. IC 5-13-14-4 IS REPEALED [EFFECTIVE JULY 1,
17 2012]. Sec. 4. A public servant who knowingly or intentionally fails to
18 perform any duty imposed upon the public servant by this article, other
19 than a duty for which a penalty is imposed by section 3 of this chapter;
20 commits a Class B misdemeanor:

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

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

29 (2) section 4(b) of this chapter if the public agency having
30 control of the information declares it to be confidential;

31 commits a Class A ~~misdemeanor~~: **infraction.**

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

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

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

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

48 SECTION 26. IC 5-17-1-5 IS REPEALED [EFFECTIVE JULY 1,
49 2012]. Sec. 5: A person making any such bid, offer, proposal, estimate
50 or contract to sell or lease; who knowingly violates this chapter

1 commits a Class D felony and may not be a party to or benefit from any
 2 contract with a public body in the state for two (2) years from the date
 3 of his conviction.

4 SECTION 27. IC 5-17-1-6 IS REPEALED [EFFECTIVE JULY 1,
 5 2012]. ~~Sec. 6. Any person, officer, board, commissioner, department~~
 6 ~~commission or purchasing agent who knowingly violates any of the~~
 7 ~~terms of this chapter commits a Class D felony.~~

8 SECTION 28. IC 7.1-2-2-9 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) An enforcement
 10 officer is vested with full police powers and duties to enforce:

- 11 (1) the provisions of this title;
- 12 (2) any other law of this state relating to alcohol or alcoholic
 13 beverages; and
- 14 (3) tobacco laws, including tobacco vending machines.

15 (b) An enforcement officer may issue a summons for infraction or
 16 misdemeanor violations if the defendant promises to appear by signing
 17 the summons. A defendant who fails to appear is subject to the
 18 penalties provided by ~~IC 35-44-3-6.5~~; **IC 35-44.1-2-10**. Upon failure
 19 to appear, the court shall issue a warrant for the arrest of the defendant.

20 (c) In addition to the authority of an enforcement officer under
 21 subsection (a), an enforcement officer may act as an officer for the
 22 arrest of offenders against the laws of this state if the enforcement
 23 officer reasonably believes that a crime is or is about to be committed
 24 or attempted in the enforcement officer's presence.

25 SECTION 29. IC 9-30-4-6, AS AMENDED BY P.L.100-2010,
 26 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2012]: Sec. 6. (a) Whenever the bureau suspends or revokes
 28 the current driver's license upon receiving a record of the conviction of
 29 a person for any offense under the motor vehicle laws not enumerated
 30 under subsection (b), the bureau may also suspend any of the
 31 certificates of registration and license plates issued for any motor
 32 vehicle registered in the name of the person so convicted. However, the
 33 bureau may not suspend the evidence of registration, unless otherwise
 34 required by law, if the person has given or gives and maintains during
 35 the three (3) years following the date of suspension or revocation proof
 36 of financial responsibility in the future in the manner specified in this
 37 section.

38 (b) The bureau shall suspend or revoke without notice or hearing the
 39 current driver's license and all certificates of registration and license
 40 plates issued or registered in the name of a person who is convicted of
 41 any of the following:

- 42 (1) Manslaughter or reckless homicide resulting from the
 43 operation of a motor vehicle.
- 44 (2) Perjury or knowingly making a false affidavit to the
 45 department under this chapter or any other law requiring the
 46 registration of motor vehicles or regulating motor vehicle
 47 operation upon the highways.
- 48 (3) A felony under Indiana motor vehicle laws or felony in the
 49 commission of which a motor vehicle is used.
- 50 (4) Three (3) charges of criminal recklessness involving the use

1 of a motor vehicle within the preceding twelve (12) months.

2 (5) Failure to stop and give information or assistance or failure to
3 stop and disclose the person's identity at the scene of an accident
4 that has resulted in death, personal injury, or property damage in
5 excess of two hundred dollars (\$200).

6 (6) Possession, distribution, manufacture, cultivation, transfer,
7 use, or sale of a controlled substance or counterfeit substance, or
8 attempting or conspiring to possess, distribute, manufacture,
9 cultivate, transfer, use, or sell a controlled substance or
10 counterfeit substance.

11 (c) The license of a person shall also be suspended upon conviction
12 in another jurisdiction for any offense described in ~~subsections~~
13 **subsection** (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5), except if property
14 damage is less than two hundred dollars (\$200), the bureau may
15 determine whether the driver's license and certificates of registration
16 and license plates shall be suspended or revoked. The license of a
17 person shall also be suspended upon conviction in another jurisdiction
18 for any offense described in subsection (b)(6).

19 (d) A suspension or revocation remains in effect and a new or
20 renewal license may not be issued to the person and a motor vehicle
21 may not be registered in the name of the person as follows:

22 (1) Except as provided in subdivisions (2), (3), (4), and (5), and
23 subject to section 6.5 of this chapter, for six (6) months from the
24 date of conviction or on the date on which the person is otherwise
25 eligible for a license, whichever is later. Except as provided in
26 IC 35-48-4-15, this includes a person convicted of a crime for
27 which the person's license is suspended or revoked under
28 subsection (b)(6).

29 (2) Subject to section 6.5 of this chapter, upon conviction of an
30 offense described in subsection (b)(1), for a fixed period of not
31 less than two (2) years and not more than five (5) years, to be
32 fixed by the bureau based upon recommendation of the court
33 entering a conviction. A new or reinstated license may not be
34 issued to the person unless that person, within the three (3) years
35 following the expiration of the suspension or revocation, gives
36 and maintains in force at all times during the effective period of
37 a new or reinstated license proof of financial responsibility in the
38 future in the manner specified in this chapter. However, the
39 liability of the insurance carrier under a motor vehicle liability
40 policy that is furnished for proof of financial responsibility in the
41 future as set out in this chapter becomes absolute whenever loss
42 or damage covered by the policy occurs, and the satisfaction by
43 the insured of a final judgment for loss or damage is not a
44 condition precedent to the right or obligation of the carrier to
45 make payment on account of loss or damage, but the insurance
46 carrier has the right to settle a claim covered by the policy. If the
47 settlement is made in good faith, the amount shall be deductive
48 from the limits of liability specified in the policy. A policy may
49 not be canceled or annulled with respect to a loss or damage by an
50 agreement between the carrier and the insured after the insured

1 has become responsible for the loss or damage, and a cancellation
 2 or annulment is void. The policy may provide that the insured or
 3 any other person covered by the policy shall reimburse the
 4 insurance carrier for payment made on account of any loss or
 5 damage claim or suit involving a breach of the terms, provisions,
 6 or conditions of the policy. If the policy provides for limits in
 7 excess of the limits specified in this chapter, the insurance carrier
 8 may plead against any plaintiff, with respect to the amount of the
 9 excess limits of liability, any defenses that the carrier may be
 10 entitled to plead against the insured. The policy may further
 11 provide for prorating of the insurance with other applicable valid
 12 and collectible insurance. An action does not lie against the
 13 insurance carrier by or on behalf of any claimant under the policy
 14 until a final judgment has been obtained after actual trial by or on
 15 behalf of any claimant under the policy.

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

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

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

23 (B) committed criminal recklessness with a vehicle (IC
 24 35-42-2-2); or

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

27 while committing the felony, for one (1) year after the date the
 28 person was convicted. The convicted person has the burden of
 29 applying for a new or renewal license and establishing that the
 30 one (1) year period described in this subdivision and subject to
 31 section 6.5 of this chapter has elapsed.

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

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

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

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

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

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

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

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

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

5 (A) no sentence is imposed; or

6 (B) a sentence is suspended.

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

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

12 (g) A suspension or revocation under this section or under
13 IC 9-25-6-8 stands pending appeal of the conviction to a higher court
14 and may be set aside or modified only upon the receipt by the bureau
15 of the certificate of the court reversing or modifying the judgment that
16 the cause has been reversed or modified. However, if the suspension or
17 revocation follows a conviction in a court of no record in Indiana, the
18 suspension or revocation is stayed pending appeal of the conviction to
19 a court of record.

20 (h) A person aggrieved by an order or act of the bureau under this
21 section or IC 9-25-6-8 may file a petition for a court review.

22 SECTION 30. IC 10-16-19-1, AS AMENDED BY SEA 26-2012,
23 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2012]: Sec. 1. (a) This section does not apply to an employee
25 of the state subject to IC 4-15-10-8.

26 (b) This section applies to an employee of a political subdivision
27 who:

28 (1) is a member of the civil air patrol; and

29 (2) has notified the employee's employer in writing that the
30 employee is a member of the civil air patrol.

31 (c) A political subdivision employer may not discipline an
32 employee:

33 (1) for being absent from employment by reason of engaging in an
34 emergency service operation that began before the time that the
35 employee was to report to employment; or

36 (2) for leaving the employee's duty station to engage in an
37 emergency service operation if the emergency service operation
38 began after the employee had reported for work and the employee
39 secured authorization from the employee's supervisor to leave the
40 employee's duty station before leaving to engage in the emergency
41 service operation.

42 (d) A political subdivision employer may require an employee who
43 has been absent from employment as set forth in subsection (c)(1) or
44 (c)(2) to present a written statement from the commander or other
45 officer in charge of the civil air patrol at the time of the absence
46 indicating that the employee was engaged in an emergency service
47 operation at the time of the absence.

48 (e) An employee who is disciplined by the employee's employer in
49 violation of subsection (c) may bring a civil action against the employer
50 in the county of employment. In the action, the employee may seek the

1 following:

- 2 (1) Payment of back wages.
 3 (2) Reinstatement to the employee's former position.
 4 (3) Fringe benefits wrongly denied or withdrawn.
 5 (4) Seniority rights wrongly denied or withdrawn.

6 An action brought under this subsection must be filed within one (1)
 7 year after the date of the disciplinary action.

8 (f) A public servant (as defined in IC 35-31.5-2-261) who permits
 9 or authorizes an employee of a political subdivision under the
 10 supervision of the public servant to be absent from employment as set
 11 forth in subsection (c) is not considered to have committed a violation
 12 of ~~IC 35-44-2-4(b)~~: **IC 35-44.1-1-3(b)**.

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

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

- 1 (25) A crime under the laws of another jurisdiction, including a
 2 military court, that is substantially similar to any of the offenses
 3 listed in this subdivision.
- 4 (26) Any other crimes evidencing a propensity or history of
 5 violence.
- 6 SECTION 32. IC 13-18-10-1.4, AS ADDED BY P.L.127-2009,
 7 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2012]: Sec. 1.4. (a) Subject to subsection (b), an application
 9 for approval under section 1 of this chapter must include for each
 10 responsible party the disclosure statement referred to in subsection (c)
 11 if either or both of the following apply:
- 12 (1) State or federal officials at any time alleged that the
 13 responsible party committed acts or omissions that constituted a
 14 material violation of state or federal environmental law.
- 15 (2) Foreign officials at any time alleged that the responsible party
 16 committed acts or omissions that:
- 17 (A) constituted a material violation of foreign environmental
 18 law; and
- 19 (B) would have constituted a material violation of state or
 20 federal environmental law if the act or omission had occurred
 21 in the United States.
- 22 (b) Subsection (a):
- 23 (1) applies only if the acts or omissions alleged under subsection
 24 (a)(1) or (a)(2) presented a substantial endangerment to human
 25 health or the environment; and
- 26 (2) does not apply to a renewal of an approval under section 1 of
 27 this chapter that does not involve construction or expansion as
 28 described in section 1 of this chapter.
- 29 (c) A responsible party referred to in subsection (a) must make
 30 reasonable efforts to provide complete and accurate information to the
 31 department in a disclosure statement that includes the following:
- 32 (1) The name and business address of the responsible party.
- 33 (2) A description of the responsible party's experience in
 34 managing the environmental aspects of the type of facility that
 35 will be managed under the permit.
- 36 (3) A description of all pending administrative, civil, or criminal
 37 enforcement actions filed in the United States against the
 38 responsible party alleging any acts or omissions that:
- 39 (A) constitute a material violation of state or federal
 40 environmental law; and
- 41 (B) present a substantial endangerment to human health or the
 42 environment.
- 43 (4) A description of all pending administrative, civil, or criminal
 44 enforcement actions filed in a foreign country against the
 45 responsible party alleging any acts or omissions that:
- 46 (A) constitute a material violation of foreign environmental
 47 law;
- 48 (B) would have constituted a material violation of state or
 49 federal environmental law if the act or omission on which the
 50 action is based had occurred in the United States; and

- 1 (C) present a substantial endangerment to human health or the
2 environment.
- 3 (5) A description of all finally adjudicated or settled
4 administrative, civil, or criminal enforcement actions in the
5 United States resolved against the responsible party within the
6 five (5) years that immediately precede the date of the application
7 involving acts or omissions that:
- 8 (A) constitute a material violation of federal or state
9 environmental law; and
- 10 (B) present a substantial endangerment to human health or the
11 environment.
- 12 (6) A description of all finally adjudicated or settled
13 administrative, civil, or criminal enforcement actions in a foreign
14 country resolved against the responsible party within the five (5)
15 years that immediately precede the date of the application
16 involving acts or omissions that:
- 17 (A) constitute a material violation of foreign environmental
18 law;
- 19 (B) would have constituted a material violation of state or
20 federal environmental law if the act or omission on which the
21 action is based had occurred in the United States; and
- 22 (C) present a substantial endangerment to human health or the
23 environment.
- 24 (7) Identification of all state, federal, or foreign environmental
25 permits:
- 26 (A) applied for by the responsible party that were denied; or
27 (B) previously held by the responsible party that were revoked.
- 28 (d) A disclosure statement submitted under subsection (c):
- 29 (1) must be executed under oath or affirmation; and
30 (2) is subject to the penalty for perjury under ~~IC 35-44-2-1.~~
31 **IC 35-44.1-2-1.**
- 32 (e) The department may investigate and verify the information set
33 forth in a disclosure statement submitted under this section.
- 34 SECTION 33. IC 13-19-4-3, AS AMENDED BY P.L.114-2008,
35 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2012]: Sec. 3. (a) In a disclosure statement required by section
37 2 of this chapter, the applicant or responsible party shall set forth the
38 following information:
- 39 (1) The name and business address of the applicant or responsible
40 party.
- 41 (2) A description of the applicant's or responsible party's
42 experience in managing the type of waste that will be managed
43 under the permit.
- 44 (3) A description of all civil and administrative complaints
45 against the applicant or responsible party for the violation of any
46 state or federal environmental protection law that:
- 47 (A) have resulted in a fine or penalty of more than ten
48 thousand dollars (\$10,000) within five (5) years before the
49 date of the submission of the application; or
50 (B) allege an act or omission that:

- 1 (i) constitutes a material violation of the state or federal
 2 environmental protection law; and
 3 (ii) presented a substantial endangerment to the public
 4 health or the environment.
- 5 (4) A description of all pending criminal complaints alleging the
 6 violation of any state or federal environmental protection law that
 7 have been filed against the applicant or responsible party within
 8 five (5) years before the date of submission of the application.
- 9 (5) A description of all judgments of criminal conviction entered
 10 against the applicant or responsible party within five (5) years
 11 before the date of submission of the application for the violation
 12 of any state or federal environmental protection law.
- 13 (6) A description of all judgments of criminal conviction of a
 14 felony constituting a crime of moral turpitude under the laws of
 15 any state or the United States that are entered against the
 16 applicant or responsible party within five (5) years before the date
 17 of submission of the application.
- 18 (7) The location of all facilities at which the applicant or
 19 responsible party manages the type of waste that would be
 20 managed under the permit to which the application refers.
- 21 (b) A disclosure statement submitted under section 2(1) of this
 22 chapter:
- 23 (1) must be executed under oath or affirmation; and
 24 (2) is subject to the penalty for perjury under ~~IC 35-44-2-1~~.
 25 **IC 35-44.1-2-1.**
- 26 SECTION 34. IC 13-20-2-2 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. Before an original
 28 permit for the construction or operation of a landfill may be granted,
 29 the applicant or a person authorized to act for the applicant under this
 30 section must submit a statement in which the applicant or authorized
 31 person swears or affirms, subject to the penalty for perjury set forth in
 32 ~~IC 35-44-2-1~~, **IC 35-44.1-2-1**, that, to the best of the applicant's or
 33 authorized person's knowledge, there are no unsatisfied and
 34 nonappealable judgments requiring the payment of money by the
 35 applicant.
- 36 SECTION 35. IC 14-34-2-6 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) An employee of
 38 the department who has a duty under this article may not have a direct
 39 or an indirect financial interest in a surface coal mining operation.
- 40 (b) In addition to the filings required under ~~IC 35-44-1~~, **IC 35-44.1**,
 41 each member of the commission shall file annually with the director a
 42 statement of employment and financial interest on a form prescribed by
 43 the department.
- 44 (c) A member of the commission may not participate in a
 45 proceeding that may affect the member's direct or indirect financial
 46 interests.
- 47 (d) A person who knowingly violates this section commits a Class
 48 A misdemeanor.
- 49 SECTION 36. IC 16-19-4-4 IS AMENDED TO READ AS
 50 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The state health

1 commissioner is governed in the performance of the state health
 2 commissioner's official duties by IC 4-2-6 and ~~IC 35-44-1-3~~
 3 **IC 35-44.1-1-4** concerning ethics and conflict of interest.

4 (b) To learn professional skills and to become familiar with new
 5 developments in the field of medicine, the state health commissioner
 6 may, in an individual capacity as a licensed physician and not in an
 7 official capacity as state health commissioner, engage in the practice
 8 of medicine if the practice of medicine does not interfere with the
 9 performance of the state health commissioner's duties as state health
 10 commissioner.

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

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

17 (b) A board member may not:

- 18 (1) serve in an elective or appointive office under the board or
 19 under the government of the civil city while serving on the board;
 20 or
- 21 (2) knowingly have a pecuniary interest as described in
 22 ~~IC 35-44-1-3(g)~~ **IC 35-44.1-1-4** in a contract or purchase with the
 23 school city in which the member is elected.

24 If, at any time after a member is elected to the board, the board member
 25 knowingly acquires a pecuniary interest in a contract or purchase with
 26 the school city, the member is disqualified to continue as a member of
 27 the board, and a vacancy in the office is created.

28 (c) Each member of the board shall, before assuming the duties of
 29 office, take an oath, before a person qualified to administer oaths, that:

- 30 (1) the member possesses all the qualifications required by this
 31 chapter for membership on the board;
- 32 (2) the member will honestly and faithfully discharge the duties
 33 of office;
- 34 (3) the member will not, while serving as a member of the board,
 35 become interested, directly or indirectly, in any contract with or
 36 claim against the school city, except as authorized by law; ~~and~~
- 37 (4) in the performance of official duties as a member of the board,
 38 including the selection of the board's officers, agents, and
 39 employees, the member will not be influenced by any
 40 consideration of politics or religion; and
- 41 (5) the member will be controlled in the selection of officers,
 42 agents, and employees only by considerations of merit, fitness,
 43 and qualification.

44 (d) Board members are entitled to receive compensation not to
 45 exceed the amount allowed under ~~IC 20-26-4-6~~ **IC 20-26-4-7** and a per
 46 diem not to exceed the rate approved for members of the city-county
 47 council established under IC 36-3-4 for attendance at each regular and
 48 committee meeting as determined by the board.

49 SECTION 38. IC 21-9-4-13 IS AMENDED TO READ AS
 50 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. Notwithstanding

1 any other law, it is not a conflict of interest or violation of any other
 2 law for a person to serve as a member of the authority. However, a
 3 member shall disclose a conflict of interest relating to actions of the
 4 authority as required and in a manner provided by ~~IC 35-44-1-3.~~
 5 **IC 35-44.1-1-4.**

6 SECTION 39. IC 23-2-5-11, AS AMENDED BY P.L.114-2010,
 7 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2012]: Sec. 11. (a) The commissioner may do the following:

9 (1) Adopt rules under IC 4-22-2 to implement this chapter.

10 (2) Make investigations and examinations:

11 (A) in connection with any application for licensure under this
 12 chapter or with any license already granted; or

13 (B) whenever it appears to the commissioner, upon the basis
 14 of a complaint or information, that reasonable grounds exist
 15 for the belief that an investigation or examination is necessary
 16 or advisable for the more complete protection of the interests
 17 of the public.

18 (3) Charge as costs of investigation or examination all reasonable
 19 expenses, including a per diem prorated upon the salary of the
 20 commissioner or employee and actual traveling and hotel
 21 expenses. All reasonable expenses are to be paid by the party or
 22 parties under investigation or examination if the party has violated
 23 this chapter.

24 (4) Issue notices and orders, including cease and desist notices
 25 and orders, after making an investigation or examination under
 26 subdivision (2). The commissioner shall notify the person that an
 27 order or notice has been issued, the reasons for it, and that a
 28 hearing will be set not later than fifteen (15) business days after
 29 the commissioner receives a written request from the person
 30 requesting a hearing if the original order issued by the
 31 commissioner was a summary suspension, summary revocation,
 32 or denial of a license and not later than forty-five (45) business
 33 days after the commissioner receives a written request from the
 34 person requesting a hearing for all other orders.

35 (5) Sign all orders, official certifications, documents, or papers
 36 issued under this chapter or delegate the authority to sign any of
 37 those items to a deputy.

38 (6) Hold and conduct hearings.

39 (7) Hear evidence.

40 (8) Conduct inquiries with or without hearings.

41 (9) Receive reports of investigators or other officers or employees
 42 of the state of Indiana or of any municipal corporation or
 43 governmental subdivision within the state.

44 (10) Administer oaths, or cause them to be administered.

45 (11) Subpoena witnesses, and compel them to attend and testify.

46 (12) Compel the production of books, records, and other
 47 documents.

48 (13) Order depositions to be taken of any witness residing within
 49 or without the state. The depositions shall be taken in the manner
 50 prescribed by law for depositions in civil actions and made

- 1 returnable to the commissioner.
- 2 (14) Order that each witness appearing under the commissioner's
- 3 order to testify before the commissioner shall receive the fees and
- 4 mileage allowances provided for witnesses in civil cases.
- 5 (15) Provide interpretive opinions or issue determinations that the
- 6 commissioner will not institute a proceeding or an action under
- 7 this chapter against a specified person for engaging in a specified
- 8 act, practice, or course of business if the determination is
- 9 consistent with this chapter. The commissioner may adopt rules
- 10 to establish fees for individuals requesting an interpretive opinion
- 11 or a determination under this subdivision. A person may not
- 12 request an interpretive opinion or a determination concerning an
- 13 activity that:
- 14 (A) occurred before; or
- 15 (B) is occurring on;
- 16 the date the opinion or determination is requested.
- 17 (16) Subject to subsection (f), designate a multistate automated
- 18 licensing system and repository, established and operated by a
- 19 third party, to serve as the sole entity responsible for:
- 20 (A) processing applications for:
- 21 (i) licenses under this chapter; and
- 22 (ii) renewals of licenses under this chapter; and
- 23 (B) performing other services that the commissioner
- 24 determines are necessary for the orderly administration of the
- 25 division's licensing system.
- 26 A multistate automated licensing system and repository described
- 27 in this subdivision may include the Nationwide Mortgage
- 28 Licensing System and Registry established by the Conference of
- 29 State Bank Supervisors and the American Association of
- 30 Residential Mortgage Regulators. The commissioner may take
- 31 any action necessary to allow the division to participate in a
- 32 multistate automated licensing system and repository.
- 33 (b) If a witness, in any hearing, inquiry, or investigation conducted
- 34 under this chapter, refuses to answer any question or produce any item,
- 35 the commissioner may file a written petition with the circuit or superior
- 36 court in the county where the hearing, investigation, or inquiry in
- 37 question is being conducted requesting a hearing on the refusal. The
- 38 court shall hold a hearing to determine if the witness may refuse to
- 39 answer the question or produce the item. If the court determines that
- 40 the witness, based upon the witness's privilege against
- 41 self-incrimination, may properly refuse to answer or produce an item,
- 42 the commissioner may make a written request that the court grant use
- 43 immunity to the witness. Upon written request of the commissioner, the
- 44 court shall grant use immunity to a witness. The court shall instruct the
- 45 witness, by written order or in open court, that:
- 46 (1) any evidence the witness gives, or evidence derived from that
- 47 evidence, may not be used in any criminal proceedings against
- 48 that witness, unless the evidence is volunteered by the witness or
- 49 is not responsive to a question; and
- 50 (2) the witness must answer the questions asked and produce the

1 items requested.

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

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

13 (d) If:

14 (1) a person disobeys any lawful:

15 (A) subpoena issued under this chapter; or

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

19 (2) a witness refuses to:

20 (A) appear when subpoenaed;

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

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

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

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

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

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

43 (A) submit information to; or

44 (B) participate in;

45 the multistate automated licensing system and repository.

46 (2) The commissioner may require a person required under this
47 chapter to submit information to the multistate automated
48 licensing system and repository to pay a processing fee considered
49 reasonable by the commissioner.

50 SECTION 40. IC 23-19-6-2, AS ADDED BY P.L.27-2007,

1 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2012]: Sec. 2. (a) The commissioner may:

3 (1) conduct public or private investigations within or outside this
4 state which the commissioner considers necessary or appropriate
5 to determine whether a person has violated, is violating, or is
6 about to violate this article or a rule adopted or order issued under
7 this article, or to aid in the enforcement of this article or in the
8 adoption of rules and forms under this article;

9 (2) require or permit a person to testify, file a statement, or
10 produce a record, under oath or otherwise as the commissioner
11 determines, as to all the facts and circumstances concerning a
12 matter to be investigated or about which an action or proceeding
13 is to be instituted; and

14 (3) publish a record concerning an action, proceeding, or an
15 investigation under, or a violation of, this article or a rule adopted
16 or order issued under this article if the commissioner determines
17 it is necessary or appropriate in the public interest and for the
18 protection of investors.

19 (b) For the purpose of an investigation under this article, the
20 commissioner or the commissioner's designated officer may administer
21 oaths and affirmations, subpoena witnesses, seek compulsion of
22 attendance, take evidence, require the filing of statements, and require
23 the production of any records that the commissioner considers relevant
24 or material to the investigation. Upon order of the commissioner or a
25 hearing officer appointed by the commissioner in any hearing,
26 depositions may be taken in the manner prescribed by law for
27 depositions in civil actions and made returnable to the commissioner
28 or a hearing officer appointed by the commissioner.

29 (c) If a person does not appear or refuses to testify, file a statement,
30 or produce records, or otherwise does not obey a subpoena as required
31 by this article, the commissioner or hearing officer appointed by the
32 commissioner may apply to the circuit or superior court in the county
33 where the hearing, investigation, or inquiry in question is being
34 conducted to enforce compliance. The court may:

35 (1) hold the person in contempt;

36 (2) order the person to appear before the commissioner or hearing
37 officer appointed by the commissioner;

38 (3) order the person to testify about the matter under investigation
39 or in question;

40 (4) order the production of records;

41 (5) grant injunctive relief, including restricting or prohibiting the
42 offer or sale of securities or the providing of investment advice;

43 (6) impose a civil penalty of not more than twenty thousand
44 dollars (\$20,000) for each violation; and

45 (7) grant any other necessary or appropriate relief.

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

50 (e) If a witness, in any hearing, inquiry, or investigation conducted

1 under this article, refuses to answer any question or produce any item,
2 the commissioner may file a written petition with the circuit or superior
3 court in the county where the hearing, investigation, or inquiry in
4 question is being conducted requesting a hearing on the refusal. The
5 court shall hold a hearing to determine if the witness may refuse to
6 answer the question or produce the item. If the court determines that
7 the witness, based upon the witness's privilege against
8 self-incrimination, may properly refuse to answer or produce an item,
9 the commissioner may make a written request that the court grant use
10 immunity to the witness. Upon written request of the commissioner, the
11 court shall grant use immunity to a witness. The court shall instruct the
12 witness, by written order or in open court, that:

13 (1) any evidence the witness gives, or evidence derived from that
14 evidence, may not be used in any criminal proceedings against
15 that witness, unless the evidence is volunteered by the witness or
16 is not responsive to a question; and

17 (2) the witness must answer the questions asked and produce the
18 items requested. A grant of use immunity does not prohibit the
19 use of evidence that the witness gives in a hearing, investigation,
20 or inquiry from being used in a prosecution for perjury under
21 ~~IC 35-44-2-1~~. **IC 35-44.1-2-1**. If a witness refuses to give the
22 evidence after the witness has been granted use immunity, the
23 court may find the witness in contempt.

24 (f) At the request of the securities regulator of another state or a
25 foreign jurisdiction, the commissioner may provide assistance if the
26 requesting regulator states that it is conducting an investigation to
27 determine whether a person has violated, is violating, or is about to
28 violate a law or rule of the other state or foreign jurisdiction relating to
29 securities matters that the requesting regulator administers or enforces.
30 The commissioner may provide the assistance by using the authority to
31 investigate and the powers conferred by this section as the
32 commissioner determines is necessary or appropriate. The assistance
33 may be provided without regard to whether the conduct described in
34 the request would also constitute a violation of this article or other law
35 of this state if occurring in this state. In deciding whether to provide the
36 assistance, the commissioner may consider whether the requesting
37 regulator is permitted and has agreed to provide assistance reciprocally
38 within its state or foreign jurisdiction to the commissioner on securities
39 matters when requested; whether compliance with the request would
40 violate or prejudice the public policy of this state; and the availability
41 of resources and employees of the commissioner to carry out the
42 request for assistance.

43 (g) In any prosecution, action, suit, or proceeding based upon or
44 arising out of or under the provisions of this article, a certificate duly
45 signed by the commissioner showing compliance or noncompliance
46 with the provisions of this article, respecting the security in question or
47 respecting compliance or noncompliance of this article, by any issuer,
48 broker-dealer, investment advisor, or agent, shall constitute prima facie
49 evidence of compliance or noncompliance with the provisions of this
50 article, as the case may be, and shall be admissible in evidence in any

1 action at law or in equity to enforce this article.

2 (h) Each witness who shall appear before the commissioner or a
3 hearing officer appointed by the commissioner by order shall receive
4 for the witness's attendance the fees and mileage provided for witnesses
5 in civil cases, which shall be audited and paid by the state in the same
6 manner as other expenses of the securities division are audited and paid
7 upon the presentation of proper vouchers sworn to by the witnesses and
8 approved by the commissioner. However, no witnesses subpoenaed at
9 the instance of parties other than the commissioner or a hearing officer
10 appointed by the commissioner shall be entitled to any fee or
11 compensation from the state.

12 SECTION 41. IC 25-36.5-1-3.5 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3.5. (a) A timber buyer
14 who intends to cease doing business as a timber buyer in Indiana and
15 who seeks the return of a deposit of cash or a certificate of deposit that
16 the timber buyer submitted to the department under section 3(b) of this
17 chapter must submit the following to the department:

18 (1) A written request for the return of the cash or certificate of
19 deposit.

20 (2) An affidavit meeting the requirements set forth in subsection
21 (b).

22 (b) To obtain the return of a deposit of cash or a certificate of
23 deposit under this section, a timber buyer must execute an affidavit
24 stating under the penalty for perjury set forth in ~~IC 35-44-2-1~~
25 **IC 35-44.1-2-1** that the timber buyer:

26 (1) has ceased doing business as a timber buyer in Indiana;

27 (2) will not resume business as a timber buyer in Indiana after the
28 date of the affidavit without filing a surety bond or submitting a
29 new deposit of cash or certificate of deposit to the department;

30 (3) has not purchased, taken, or cut any timber for which the
31 timber grower has not been paid; and

32 (4) is not a party to an executory contract for the purchase of
33 timber under which the timber buyer has one (1) or more duties
34 that have not been performed.

35 (c) Upon receiving a written request described in subsection (a)(1)
36 and an affidavit meeting the requirements of subsection (b), the
37 department shall publish a notice of the request in at least one (1)
38 publication commonly read by persons active in forestry in Indiana.
39 The notice must do the following:

40 (1) Identify the timber buyer requesting the release of the cash or
41 certificate of deposit.

42 (2) Indicate the date of the request.

43 (3) State that the cash or certificate of deposit will be released to
44 the timber buyer on a particular date, which must be at least sixty
45 (60) days after the date of publication of the notice, unless the
46 department is informed of a reason why the cash or certificate of
47 deposit should not be released.

48 (d) On the date set forth under subsection (c)(3) in the notice given
49 by the department, the department shall return the cash or certificate of
50 deposit to the timber buyer unless the department has obtained

1 information indicating that a statement set forth in the timber buyer's
2 affidavit is false.

3 SECTION 42. IC 31-37-4-3, AS AMENDED BY P.L.3-2008,
4 SECTION 240, IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) This section applies if a child
6 is arrested or taken into custody for allegedly committing an act that
7 would be any of the following crimes if committed by an adult:

- 8 (1) Murder (IC 35-42-1-1).
- 9 (2) Attempted murder (IC 35-41-5-1).
- 10 (3) Voluntary manslaughter (IC 35-42-1-3).
- 11 (4) Involuntary manslaughter (IC 35-42-1-4).
- 12 (5) Reckless homicide (IC 35-42-1-5).
- 13 (6) Aggravated battery (IC 35-42-2-1.5).
- 14 (7) Battery (IC 35-42-2-1).
- 15 (8) Kidnapping (IC 35-42-3-2).
- 16 (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
- 17 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 18 (11) Incest (IC 35-46-1-3).
- 19 (12) Robbery as a Class A felony or a Class B felony (IC
20 35-42-5-1).
- 21 (13) Burglary as a Class A felony or a Class B felony (IC
22 35-43-2-1).
- 23 (14) Carjacking (IC 35-42-5-2).
- 24 (15) Assisting a criminal as a Class C felony (~~IC 35-44-3-2~~; **IC**
25 **35-44.1-2-5**).
- 26 (16) Escape (~~IC 35-44-3-5~~) (**IC 35-44.1-3-4**) as a Class B felony
27 or Class C felony.
- 28 (17) Trafficking with an inmate as a Class C felony (~~IC~~
29 ~~35-44-3-9~~; **IC 35-44.1-3-5**).
- 30 (18) Causing death when operating a motor vehicle (IC 9-30-5-5).
- 31 (19) Criminal confinement (IC 35-42-3-3) as a Class B felony.
- 32 (20) Arson (IC 35-43-1-1) as a Class A or Class B felony.
- 33 (21) Possession, use, or manufacture of a weapon of mass
34 destruction (IC 35-47-12-1).
- 35 (22) Terroristic mischief (IC 35-47-12-3) as a Class B felony.
- 36 (23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
- 37 (24) A violation of IC 35-47.5 (controlled explosives) as a Class
38 A or Class B felony.
- 39 (25) A controlled substances offense under IC 35-48.
- 40 (26) A criminal gang offense under IC 35-45-9.

41 (b) If a child is taken into custody under this chapter for a crime or
42 act listed in subsection (a), the law enforcement agency that employs
43 the law enforcement officer who takes the child into custody shall
44 notify the chief administrative officer of the primary or secondary
45 school, including a public or nonpublic school, in which the child is
46 enrolled or, if the child is enrolled in a public school, the
47 superintendent of the school district in which the child is enrolled:

- 48 (1) that the child was taken into custody; and
- 49 (2) of the reason why the child was taken into custody.

50 (c) The notification under subsection (b) must occur within

1 forty-eight (48) hours after the child is taken into custody.

2 (d) A law enforcement agency may not disclose information that is
3 confidential under state or federal law to a school or school district
4 under this section.

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

10 (1) to recover the wages the person lost as a result of the
11 dismissal; and

12 (2) to obtain an order requiring reinstatement by the employer.

13 If the person obtains a judgment against the employer, the court shall
14 award a reasonable attorney's fee to the person's attorney.

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

19 SECTION 45. IC 35-31.5-2-38, AS ADDED BY SEA 26-2012,
20 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2012]: Sec. 38. "Child", for purposes of IC 35-47-10 **and**
22 **IC 35-44.1-5-5**, has the meaning set forth in IC 35-47-10-3.

23 SECTION 46. IC 35-31.5-2-91, AS ADDED BY SEA 26-2012,
24 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2012]: Sec. 91. "Designated offense", for purposes of
26 IC 35-33.5, means the following:

27 (1) A Class A, Class B, or Class C felony that is a controlled
28 substance offense (IC 35-48-4).

29 (2) Murder (IC 35-42-1-1).

30 (3) Kidnapping (IC 35-42-3-2).

31 (4) Criminal confinement (IC 35-42-3-3).

32 (5) Robbery (IC 35-42-5-1).

33 (6) Arson (IC 35-43-1-1).

34 (7) Child solicitation (IC 35-42-4-6).

35 (8) Human and sexual trafficking crimes under IC 35-42-3.5.

36 (9) Escape as a Class B felony or Class C felony (~~IC 35-44-3-5~~);
37 **(IC 35-44.1-3-4).**

38 (10) An offense that relates to a weapon of mass destruction (as
39 defined in section 354 of this chapter).

40 (11) An attempt or conspiracy to commit an offense described in
41 subdivisions (1) through (10).

42 (12) An offense under the law of the United States or in another
43 state or country that is substantially similar to an offense
44 described in subdivisions (1) through (11).

45 SECTION 47. IC 35-34-1-2.4 IS AMENDED TO READ AS
46 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.4. (a) If an
47 indictment, information, pleading, motion, petition, probable cause
48 affidavit, or other document is required to be verified or sworn under
49 oath before it is submitted to the court in a criminal action, the
50 document meets the requirements of the law as a sworn document if the

1 following form or a substantially similar form is used:

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

5 Signed _____

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

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

11 SECTION 48. IC 35-34-2-8 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) Upon request by
 13 the prosecuting attorney, the court shall grant use immunity to a
 14 witness before the grand jury. The court shall instruct the witness by
 15 written order or in open court that any evidence the witness gives
 16 before the grand jury, or evidence derived from that evidence, may not
 17 be used in any criminal prosecution against that witness, unless the
 18 evidence is volunteered by the witness or is not responsive to a
 19 question by the grand jury or the prosecutor. The court shall then
 20 instruct the witness that ~~he~~ **the witness** must answer the questions
 21 asked and produce the items requested.

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

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

29 SECTION 49. IC 35-37-3-3 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Upon request of
 31 the prosecuting attorney, the court shall grant use immunity to a
 32 witness. The court shall instruct the witness, by written order or in open
 33 court, that any evidence the witness gives, or evidence derived from
 34 that evidence, may not be used in any criminal proceeding against that
 35 witness, unless the evidence is volunteered by the witness or is not
 36 responsive to a question by the prosecuting attorney. The court shall
 37 instruct the witness that ~~he~~ **the witness** must answer the questions
 38 asked and produce the items requested.

39 (b) A grant of use immunity does not prohibit the use of evidence
 40 the witness has given in a prosecution for perjury under ~~IC 35-44-2-1~~.
 41 **IC 35-44.1-2-1.**

42 (c) If a witness refuses to give the evidence after ~~he~~ **the witness** has
 43 been granted use immunity, the court may find ~~him~~ **the witness** in
 44 contempt.

45 SECTION 50. IC 35-38-1-7.1, AS AMENDED BY P.L.119-2008,
 46 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 47 JULY 1, 2012]: Sec. 7.1. (a) In determining what sentence to impose
 48 for a crime, the court may consider the following aggravating
 49 circumstances:

50 (1) The harm, injury, loss, or damage suffered by the victim of an

- 1 offense was:
- 2 (A) significant; and
- 3 (B) greater than the elements necessary to prove the
- 4 commission of the offense.
- 5 (2) The person has a history of criminal or delinquent behavior.
- 6 (3) The victim of the offense was less than twelve (12) years of
- 7 age or at least sixty-five (65) years of age at the time the person
- 8 committed the offense.
- 9 (4) The person:
- 10 (A) committed a crime of violence (IC 35-50-1-2); and
- 11 (B) knowingly committed the offense in the presence or within
- 12 hearing of an individual who:
- 13 (i) was less than eighteen (18) years of age at the time the
- 14 person committed the offense; and
- 15 (ii) is not the victim of the offense.
- 16 (5) The person violated a protective order issued against the
- 17 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
- 18 IC 34-4-5.1 before their repeal), a workplace violence restraining
- 19 order issued against the person under IC 34-26-6, or a no contact
- 20 order issued against the person.
- 21 (6) The person has recently violated the conditions of any
- 22 probation, parole, pardon, community corrections placement, or
- 23 pretrial release granted to the person.
- 24 (7) The victim of the offense was:
- 25 (A) a person with a disability (as defined in IC 27-7-6-12), and
- 26 the defendant knew or should have known that the victim was
- 27 a person with a disability; or
- 28 (B) mentally or physically infirm.
- 29 (8) The person was in a position having care, custody, or control
- 30 of the victim of the offense.
- 31 (9) The injury to or death of the victim of the offense was the
- 32 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 33 (10) The person threatened to harm the victim of the offense or a
- 34 witness if the victim or witness told anyone about the offense.
- 35 (11) The person:
- 36 (A) committed trafficking with an inmate under ~~IC 35-44-3-9;~~
- 37 **IC 35-44.1-3-5;** and
- 38 (B) is an employee of the penal facility.
- 39 (b) The court may consider the following factors as mitigating
- 40 circumstances or as favoring suspending the sentence and imposing
- 41 probation:
- 42 (1) The crime neither caused nor threatened serious harm to
- 43 persons or property, or the person did not contemplate that it
- 44 would do so.
- 45 (2) The crime was the result of circumstances unlikely to recur.
- 46 (3) The victim of the crime induced or facilitated the offense.
- 47 (4) There are substantial grounds tending to excuse or justify the
- 48 crime, though failing to establish a defense.
- 49 (5) The person acted under strong provocation.
- 50 (6) The person has no history of delinquency or criminal activity,

- 1 or the person has led a law-abiding life for a substantial period
 2 before commission of the crime.
- 3 (7) The person is likely to respond affirmatively to probation or
 4 short term imprisonment.
- 5 (8) The character and attitudes of the person indicate that the
 6 person is unlikely to commit another crime.
- 7 (9) The person has made or will make restitution to the victim of
 8 the crime for the injury, damage, or loss sustained.
- 9 (10) Imprisonment of the person will result in undue hardship to
 10 the person or the dependents of the person.
- 11 (11) The person was convicted of a crime involving the use of
 12 force against a person who had repeatedly inflicted physical or
 13 sexual abuse upon the convicted person and evidence shows that
 14 the convicted person suffered from the effects of battery as a
 15 result of the past course of conduct of the individual who is the
 16 victim of the crime for which the person was convicted.
- 17 (c) The criteria listed in subsections (a) and (b) do not limit the
 18 matters that the court may consider in determining the sentence.
- 19 (d) A court may impose any sentence that is:
- 20 (1) authorized by statute; and
- 21 (2) permissible under the Constitution of the State of Indiana;
 22 regardless of the presence or absence of aggravating circumstances or
 23 mitigating circumstances.
- 24 SECTION 51. IC 35-38-2.5-4.7, AS AMENDED BY P.L.31-2005,
 25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2012]: Sec. 4.7. As used in this chapter, "violent offender"
 27 means a person who is:
- 28 (1) convicted of an offense or attempted offense under
 29 IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1,
 30 ~~IC 35-44-3-5~~, **IC 35-44.1-3-4**, IC 35-45-10-5, IC 35-47-5-1
 31 (repealed), or IC 35-47.5-5;
- 32 (2) charged with an offense or attempted offense listed in
 33 IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-42-4,
 34 IC 35-43-1-1, ~~IC 35-44-3-5~~, **IC 35-44.1-3-4**, IC 35-45-10-5,
 35 IC 35-46-1-3, IC 35-47-5-1 (repealed), or IC 35-47.5-5; or
- 36 (3) a security risk as determined under section 10 of this chapter.
- 37 SECTION 52. IC 35-38-2.5-6, AS AMENDED BY P.L.1-2007,
 38 SECTION 228, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2012]: Sec. 6. An order for home detention of
 40 an offender under section 5 of this chapter must include the following:
- 41 (1) A requirement that the offender be confined to the offender's
 42 home at all times except when the offender is:
- 43 (A) working at employment approved by the court or traveling
 44 to or from approved employment;
- 45 (B) unemployed and seeking employment approved for the
 46 offender by the court;
- 47 (C) undergoing medical, psychiatric, mental health treatment,
 48 counseling, or other treatment programs approved for the
 49 offender by the court;
- 50 (D) attending an educational institution or a program approved

- 1 for the offender by the court;
 2 (E) attending a regularly scheduled religious service at a place
 3 of worship; or
 4 (F) participating in a community work release or community
 5 restitution or service program approved for the offender by the
 6 court.
- 7 (2) Notice to the offender that violation of the order for home
 8 detention may subject the offender to prosecution for the crime of
 9 escape under ~~IC 35-44-3-5~~. **IC 35-44.1-3-4.**
- 10 (3) A requirement that the offender abide by a schedule prepared
 11 by the probation department, or by a community corrections
 12 program ordered to provide supervision of the offender's home
 13 detention, specifically setting forth the times when the offender
 14 may be absent from the offender's home and the locations the
 15 offender is allowed to be during the scheduled absences.
- 16 (4) A requirement that the offender is not to commit another
 17 crime during the period of home detention ordered by the court.
- 18 (5) A requirement that the offender obtain approval from the
 19 probation department or from a community corrections program
 20 ordered to provide supervision of the offender's home detention
 21 before the offender changes residence or the schedule described
 22 in subdivision (3).
- 23 (6) A requirement that the offender maintain:
 24 (A) a working telephone in the offender's home; and
 25 (B) if ordered by the court, a monitoring device in the
 26 offender's home or on the offender's person, or both.
- 27 (7) A requirement that the offender pay a home detention fee set
 28 by the court in addition to the probation user's fee required under
 29 IC 35-38-2-1 or IC 31-40. However, the fee set under this
 30 subdivision may not exceed the maximum fee specified by the
 31 department of correction under IC 11-12-2-12.
- 32 (8) A requirement that the offender abide by other conditions of
 33 probation set by the court under IC 35-38-2-2.3.
- 34 (9) A requirement that an offender:
 35 (A) who is convicted of an offense described in IC 10-13-6-10;
 36 (B) who has not previously provided a DNA sample in
 37 accordance with IC 10-13-6; and
 38 (C) whose sentence does not involve a commitment to the
 39 department of correction;
 40 provide a DNA sample.
- 41 **SECTION 53. IC 35-44 IS REPEALED [EFFECTIVE JULY 1,**
 42 **2012]. (Offenses Against Public Administration).**
- 43 **SECTION 54. IC 35-44.1 IS ADDED TO THE INDIANA CODE**
 44 **AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY**
 45 **1, 2012]:**
- 46 **ARTICLE 44.1. OFFENSES AGAINST GENERAL PUBLIC**
 47 **ADMINISTRATION**
- 48 **Chapter 1. General Public Administration**
- 49 **Sec. 1. A public servant who knowingly or intentionally:**
- 50 **(1) commits an offense in the performance of the public**
 51 **servant's official duties;**

1 (2) solicits, accepts, or agrees to accept from an appointee or
 2 employee any property other than what the public servant is
 3 authorized by law to accept as a condition of continued
 4 employment;

5 (3) acquires or divests himself or herself of a pecuniary
 6 interest in any property, transaction, or enterprise or aids
 7 another person to do so based on information obtained by
 8 virtue of the public servant's office that official action that has
 9 not been made public is contemplated; or

10 (4) fails to deliver public records and property in the public
 11 servant's custody to the public servant's successor in office
 12 when that successor qualifies;

13 commits official misconduct, a Class D felony.

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

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

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

29 (3) confers, offers, or agrees to confer on a person any
 30 property, except property the person is authorized by law to
 31 accept, with intent to cause that person to control the
 32 performance of an act related to the employment or function
 33 of a public servant;

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

38 (5) confers, offers, or agrees to confer any property on a
 39 person participating or officiating in, or connected with, an
 40 athletic contest, sporting event, or exhibition, with intent that
 41 the person will fail to use the person's best efforts in
 42 connection with that contest, event, or exhibition;

43 (6) being a person participating in, officiating in, or connected
 44 with an athletic contest, sporting event, or exhibition, solicits,
 45 accepts, or agrees to accept any property with intent that the
 46 person will fail to use the person's best efforts in connection
 47 with that contest, event, or exhibition;

48 (7) being a witness or informant in an official proceeding or
 49 investigation, solicits, accepts, or agrees to accept any
 50 property, with intent to:

51 (A) withhold any testimony, information, document, or

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

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

3 (1) that do not:

4 (A) promote religion;

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

6 or

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

8 (2) for the benefit of:

9 (A) another governmental entity; or

10 (B) an organization that is exempt from federal income
11 taxation under Section 501(c)(3) of the Internal Revenue
12 Code;

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

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

15 (A) is in writing;

16 (B) is issued by the executive officer of the governmental
17 entity; and

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

21 is considered to be performing duties related to the operation of the
22 governmental entity.

23 Sec. 4. (a) The following definitions apply throughout this
24 section:

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

26 (A) The spouse of a public servant.

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

29 (i) unemancipated; and

30 (ii) less than eighteen (18) years of age.

31 (C) An individual more than one-half (1/2) of whose
32 support is provided during a year by the public servant.

33 (2) "Governmental entity served by the public servant" means
34 the immediate governmental entity being served by a public
35 servant.

36 (3) "Pecuniary interest" means an interest in a contract or
37 purchase if the contract or purchase will result or is intended
38 to result in an ascertainable increase in the income or net
39 worth of:

40 (A) the public servant; or

41 (B) a dependent of the public servant who:

42 (i) is under the direct or indirect administrative control
43 of the public servant; or

44 (ii) receives a contract or purchase order that is
45 reviewed, approved, or directly or indirectly
46 administered by the public servant.

47 (b) A public servant who knowingly or intentionally:

48 (1) has a pecuniary interest in; or

49 (2) derives a profit from;

50 a contract or purchase connected with an action by the
51 governmental entity served by the public servant commits conflict

1 of interest, a Class D felony.

2 (c) It is not an offense under this section if any of the following
3 apply:

4 (1) The public servant or the public servant's dependent
5 receives compensation through salary or an employment
6 contract for:

7 (A) services provided as a public servant; or

8 (B) expenses incurred by the public servant as provided by
9 law.

10 (2) The public servant's interest in the contract or purchase
11 and all other contracts and purchases made by the
12 governmental entity during the twelve (12) months before the
13 date of the contract or purchase was two hundred fifty dollars
14 (\$250) or less.

15 (3) The contract or purchase involves utility services from a
16 utility whose rate structure is regulated by the state or federal
17 government.

18 (4) The public servant:

19 (A) acts in only an advisory capacity for a state supported
20 college or university; and

21 (B) does not have authority to act on behalf of the college
22 or university in a matter involving a contract or purchase.

23 (5) A public servant under the jurisdiction of the state ethics
24 commission (as provided in IC 4-2-6-2.5) obtains from the
25 state ethics commission, following full and truthful disclosure,
26 written approval that the public servant will not or does not
27 have a conflict of interest in connection with the contract or
28 purchase under IC 4-2-6 and this section. The approval
29 required under this subdivision must be:

30 (A) granted to the public servant before action is taken in
31 connection with the contract or purchase by the
32 governmental entity served; or

33 (B) sought by the public servant as soon as possible after
34 the contract is executed or the purchase is made and the
35 public servant becomes aware of the facts that give rise to
36 a question of conflict of interest.

37 (6) A public servant makes a disclosure that meets the
38 requirements of subsection (d) or (e) and is:

39 (A) not a member or on the staff of the governing body
40 empowered to contract or purchase on behalf of the
41 governmental entity, and functions and performs duties for
42 the governmental entity unrelated to the contract or
43 purchase;

44 (B) appointed by an elected public servant;

45 (C) employed by the governing body of a school
46 corporation and the contract or purchase involves the
47 employment of a dependent or the payment of fees to a
48 dependent;

49 (D) elected; or

50 (E) a member of, or a person appointed by, the board of
51 trustees of a state supported college or university.

1 (7) The public servant is a member of the governing board of,
 2 or is a physician employed or contracted by, a hospital
 3 organized or operated under IC 16-22-1 through IC 16-22-5
 4 or IC 16-23-1.

5 (d) A disclosure must:

6 (1) be in writing;

7 (2) describe the contract or purchase to be made by the
 8 governmental entity;

9 (3) describe the pecuniary interest that the public servant has
 10 in the contract or purchase;

11 (4) be affirmed under penalty of perjury;

12 (5) be submitted to the governmental entity and be accepted
 13 by the governmental entity in a public meeting of the
 14 governmental entity before final action on the contract or
 15 purchase;

16 (6) be filed within fifteen (15) days after final action on the
 17 contract or purchase with:

18 (A) the state board of accounts; and

19 (B) if the governmental entity is a governmental entity
 20 other than the state or a state supported college or
 21 university, the clerk of the circuit court in the county
 22 where the governmental entity takes final action on the
 23 contract or purchase; and

24 (7) contain, if the public servant is appointed, the written
 25 approval of the elected public servant (if any) or the board of
 26 trustees of a state supported college or university (if any) that
 27 appointed the public servant.

28 (e) This subsection applies only to a person who is a member of,
 29 or a person appointed by, the board of trustees of a state supported
 30 college or university. A person to whom this subsection applies
 31 complies with the disclosure requirements of this chapter with
 32 respect to the person's pecuniary interest in a particular type of
 33 contract or purchase which is made on a regular basis from a
 34 particular vendor if the individual files with the state board of
 35 accounts and the board of trustees a statement of pecuniary
 36 interest in that particular type of contract or purchase made with
 37 that particular vendor. The statement required by this subsection
 38 must be made on an annual basis.

39 Sec. 5. (a) As used in this section, "pecuniary interest" has the
 40 meaning set forth in section 4(a)(3) of this chapter.

41 (b) A person who knowingly or intentionally:

42 (1) obtains a pecuniary interest in a contract or purchase with
 43 an agency within one (1) year after separation from
 44 employment or other service with the agency; and

45 (2) is not a public servant for the agency but who as a public
 46 servant approved, negotiated, or prepared on behalf of the
 47 agency the terms or specifications of:

48 (A) the contract; or

49 (B) the purchase;

50 commits profiteering from public service, a Class D felony.

51 (c) This section does not apply to negotiations or other activities

1 related to an economic development grant, loan, or loan guarantee.

2 (d) This section does not apply if the person receives less than
3 two hundred fifty dollars (\$250) of the profits from the contract or
4 purchase.

5 (e) It is a defense to a prosecution under this section that:

6 (1) the person was screened from any participation in the
7 contract or purchase;

8 (2) the person has not received a part of the profits of the
9 contract or purchase; and

10 (3) notice was promptly given to the agency of the person's
11 interest in the contract or purchase.

12 **Chapter 2. Interference with General Government Operations**

13 **Sec. 1. (a) A person who:**

14 (1) makes a false, material statement under oath or
15 affirmation, knowing the statement to be false or not believing
16 it to be true; or

17 (2) has knowingly made two (2) or more material statements,
18 in a proceeding before a court or grand jury, which are
19 inconsistent to the degree that one (1) of them is necessarily
20 false;

21 commits perjury, a Class D felony.

22 (b) In a prosecution under subsection (a)(2):

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

25 (2) the falsity of a statement may be established sufficiently
26 for conviction by proof that the defendant made
27 irreconcilably contradictory statements which are material to
28 the point in question.

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

30 (1) knowingly or intentionally induces, by threat, coercion, or
31 false statement, a witness or informant in an official
32 proceeding or investigation to:

33 (A) withhold or unreasonably delay in producing any
34 testimony, information, document, or thing;

35 (B) avoid legal process summoning the person to testify or
36 supply evidence; or

37 (C) absent the person from a proceeding or investigation
38 to which the person has been legally summoned;

39 (2) knowingly or intentionally in an official criminal
40 proceeding or investigation:

41 (A) withholds or unreasonably delays in producing any
42 testimony, information, document, or thing after a court
43 orders the person to produce the testimony, information,
44 document, or thing;

45 (B) avoids legal process summoning the person to testify or
46 supply evidence; or

47 (C) absents the person from a proceeding or investigation
48 to which the person has been legally summoned;

49 (3) alters, damages, or removes any record, document, or
50 thing, with intent to prevent it from being produced or used
51 as evidence in any official proceeding or investigation;

1 (4) makes, presents, or uses a false record, document, or thing
 2 with intent that the record, document, or thing, material to
 3 the point in question, appear in evidence in an official
 4 proceeding or investigation to mislead a public servant; or
 5 (5) communicates, directly or indirectly, with a juror
 6 otherwise than as authorized by law, with intent to influence
 7 the juror regarding any matter that is or may be brought
 8 before the juror;

9 commits obstruction of justice, a Class D felony.

10 (b) Subsection (a)(2)(A) does not apply to:

11 (1) a person who qualifies for a special privilege under
 12 IC 34-46-4 with respect to the testimony, information,
 13 document, or thing; or

14 (2) a person who, as:

15 (A) an attorney;

16 (B) a physician;

17 (C) a member of the clergy; or

18 (D) a husband or wife;

19 is not required to testify under IC 34-46-3-1.

20 Sec. 3. (a) As used in this section, "consumer product" has the
 21 meaning set forth in IC 35-45-8-1.

22 (b) As used in this section, "misconduct" means a violation of a
 23 departmental rule or procedure of a law enforcement agency.

24 (c) A person who reports, by telephone, telegraph, mail, or other
 25 written or oral communication, that:

26 (1) the person or another person has placed or intends to
 27 place an explosive, a destructive device, or other destructive
 28 substance in a building or transportation facility;

29 (2) there has been or there will be tampering with a consumer
 30 product introduced into commerce; or

31 (3) there has been or will be placed or introduced a weapon of
 32 mass destruction in a building or a place of assembly;

33 knowing the report to be false, commits false reporting, a Class D
 34 felony.

35 (d) A person who:

36 (1) gives a false report of the commission of a crime or gives
 37 false information in the official investigation of the
 38 commission of a crime, knowing the report or information to
 39 be false;

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

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

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

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

- 1 (A) alleging the officer engaged in misconduct while
 2 performing the officer's duties; and
 3 (B) knowing the complaint to be false; or
 4 (6) makes a false report of a missing person, knowing the
 5 report or information is false;

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

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

- 10 (1) with intent to mislead public servants;
 11 (2) in a five (5) year period; and
 12 (3) in one (1) or more official proceedings or investigations;
 13 has knowingly made at least two (2) material statements
 14 concerning the person's identity that are inconsistent to the degree
 15 that one (1) of them is necessarily false commits false identity
 16 statement, a Class A misdemeanor.

17 (b) It is a defense to a prosecution under this section that the
 18 material statements that are the basis of a prosecution under
 19 subsection (a) concerning the person's identity are accurate or
 20 were accurate in the past.

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

- 22 (1) the indictment or information need not specify which
 23 statement is actually false; and
 24 (2) the falsity of a statement may be established sufficiently
 25 for conviction by proof that the defendant made
 26 irreconcilably contradictory statements concerning the
 27 person's identity.

28 Sec. 5. (a) A person not standing in the relation of parent, child,
 29 or spouse to another person who has committed a crime or is a
 30 fugitive from justice who, with intent to hinder the apprehension
 31 or punishment of the other person, harbors, conceals, or otherwise
 32 assists the person commits assisting a criminal, a Class A
 33 misdemeanor. However, the offense is:

- 34 (1) a Class D felony, if the person assisted has committed a
 35 Class B, Class C, or Class D felony; and
 36 (2) a Class C felony, if the person assisted has committed
 37 murder or a Class A felony, or if the assistance was providing
 38 a deadly weapon.

39 (b) It is not a defense to a prosecution under this section that the
 40 person assisted:

- 41 (1) has not been prosecuted for the offense;
 42 (2) has not been convicted of the offense; or
 43 (3) has been acquitted of the offense by reason of insanity.

44 However, the acquittal of the person assisted for other reasons may
 45 be a defense.

46 Sec. 6. A person who falsely represents that the person is a
 47 public servant, with intent to mislead and induce another person
 48 to submit to false official authority or otherwise to act to the other
 49 person's detriment in reliance on the false representation, commits
 50 impersonation of a public servant, a Class A misdemeanor.
 51 However, a person who falsely represents that the person is:

1 (1) a law enforcement officer; or
 2 (2) an agent or employee of the department of state revenue,
 3 and collects any property from another person;
 4 commits a Class D felony.

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

- 6 (1) possesses a police radio;
 7 (2) transmits over a frequency assigned for police emergency
 8 purposes; or
 9 (3) possesses or uses a police radio:
 10 (A) while committing a crime;
 11 (B) to further the commission of a crime; or
 12 (C) to avoid detection by a law enforcement agency;

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

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

- 15 (1) a governmental entity;
 16 (2) a regularly employed law enforcement officer;
 17 (3) a common carrier of persons for hire whose vehicles are
 18 used in emergency service;
 19 (4) a public service or utility company whose vehicles are used
 20 in emergency service;
 21 (5) a person who has written permission from the chief
 22 executive officer of a law enforcement agency to possess a
 23 police radio;
 24 (6) a person who holds an amateur radio license issued by the
 25 Federal Communications Commission if the person is not
 26 transmitting over a frequency assigned for police emergency
 27 purposes;
 28 (7) a person who uses a police radio only in the person's
 29 dwelling or place of business;
 30 (8) a person:
 31 (A) who is regularly engaged in newsgathering activities;
 32 (B) who is employed by a newspaper qualified to receive
 33 legal advertisements under IC 5-3-1, a wire service, or a
 34 licensed commercial or public radio or television station;
 35 and
 36 (C) whose name is furnished by the person's employer to
 37 the chief executive officer of a law enforcement agency in
 38 the county in which the employer's principal office is
 39 located;
 40 (9) a person engaged in the business of manufacturing or
 41 selling police radios; or
 42 (10) a person who possesses or uses a police radio during the
 43 normal course of the person's lawful business.

44 (c) As used in this section, "police radio" means a radio that is
 45 capable of sending or receiving signals transmitted on frequencies
 46 assigned by the Federal Communications Commission for police
 47 emergency purposes and that:

- 48 (1) can be installed, maintained, or operated in a vehicle; or
 49 (2) can be operated while it is being carried by an individual.

50 The term does not include a radio designed for use only in a
 51 dwelling.

1 **Sec. 8. (a) A person who knowingly or intentionally**
 2 **manufactures and sells or manufactures and offers for sale:**

3 **(1) an official badge or a replica of an official badge that is**
 4 **currently used by a law enforcement agency or fire**
 5 **department of the state or of a political subdivision of the**
 6 **state; or**

7 **(2) a document that purports to be an official employment**
 8 **identification that is used by a law enforcement agency or fire**
 9 **department of the state or of a political subdivision of the**
 10 **state;**

11 **without the written permission of the chief executive officer of the**
 12 **law enforcement agency commits unlawful manufacture or sale of**
 13 **a police or fire insignia, a Class A misdemeanor.**

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

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

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

23 **(c) It is a defense to a prosecution under subsection (a)(1) if the**
 24 **area of the badge or replica that is manufactured and sold or**
 25 **manufactured and offered for sale as measured by multiplying the**
 26 **greatest length of the badge by the greatest width of the badge is:**

27 **(1) less than fifty percent (50%); or**

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

29 **of the area of an official badge that is used by a law enforcement**
 30 **agency or fire department of the state or a political subdivision of**
 31 **the state as measured by multiplying the greatest length of the**
 32 **official badge by the greatest width of the official badge.**

33 **Sec. 9. (a) A person who, having been released from lawful**
 34 **detention on condition that the person appear at a specified time**
 35 **and place in connection with a charge of a crime, intentionally fails**
 36 **to appear at that time and place commits failure to appear, a Class**
 37 **A misdemeanor. However, the offense is a Class D felony if the**
 38 **charge was a felony charge.**

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

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

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

44 **(1) a complaint and summons in connection with an infraction**
 45 **or ordinance violation; or**

46 **(2) a summons, or summons and promise to appear, in**
 47 **connection with a misdemeanor violation;**

48 **notifying the person to appear at a specific time and place,**
 49 **intentionally fails to appear at the specified time and place commits**
 50 **failure to respond to a summons, a Class C misdemeanor.**

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

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

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

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

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

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

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

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

18 **Chapter 3. Detention**

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

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

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

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

- 34 (1) Class D felony if:
 - 35 (A) the offense is described in subsection (a)(3) and the
 36 person uses a vehicle to commit the offense; or
 - 37 (B) while committing any offense described in subsection
 38 (a), the person draws or uses a deadly weapon, inflicts
 39 bodily injury on or otherwise causes bodily injury to
 40 another person, or operates a vehicle in a manner that
 41 creates a substantial risk of bodily injury to another
 42 person;
- 43 (2) Class C felony if, while committing any offense described
 44 in subsection (a), the person operates a vehicle in a manner
 45 that causes serious bodily injury to another person;
- 46 (3) Class B felony if, while committing any offense described
 47 in subsection (a), the person operates a vehicle in a manner
 48 that causes the death of another person; and
- 49 (4) Class A felony if, while committing any offense described
 50 in subsection (a), the person operates a vehicle in a manner
 51 that causes the death of a law enforcement officer while the

1 law enforcement officer is engaged in the officer's official
2 duties.

3 (c) For purposes of this section, a law enforcement officer
4 includes an enforcement officer of the alcohol and tobacco
5 commission and a conservation officer of the department of
6 natural resources.

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

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

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

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

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

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

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

25 (2) subsection (b)(2); or

26 (3) subsection (b)(3);

27 the court may notify the bureau of motor vehicles to suspend or
28 revoke the person's driver's license and all certificates of
29 registration and license plates issued or registered in the person's
30 name in accordance with IC 9-30-4-6(b)(3) for the period described
31 in IC 9-30-4-6(d)(4) or IC 9-30-4-6(d)(5). The court shall inform
32 the bureau whether the person has been sentenced to a term of
33 incarceration. At the time of conviction, the court may obtain the
34 person's current driver's license and return the license to the
35 bureau of motor vehicles.

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

38 (1) A person employed by:

39 (A) the department of correction;

40 (B) a law enforcement agency;

41 (C) a probation department;

42 (D) a county jail; or

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

46 (2) A law enforcement officer.

47 (b) A person who:

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

49 (2) knowingly or intentionally takes or attempts to take a
50 firearm (as defined in IC 35-47-1-5) or weapon that the officer
51 is authorized to carry from the officer or from the immediate

1 **proximity of the officer:**

2 **(A) without the consent of the officer; and**

3 **(B) while the officer is engaged in the performance of the**
 4 **officer's official duties;**

5 **commits disarming a law enforcement officer, a Class C felony.**
 6 **However, the offense is a Class B felony if it results in serious**
 7 **bodily injury to the officer, and the offense is a Class A felony if it**
 8 **results in death to the officer or if a firearm (as defined in**
 9 **IC 35-47-1-5) was taken and the offense results in serious bodily**
 10 **injury to the officer.**

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

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

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

23 **(c) A person who knowingly or intentionally fails to return to**
 24 **lawful detention following temporary leave granted for a specified**
 25 **purpose or limited period commits failure to return to lawful**
 26 **detention, a Class D felony. However, the offense is a Class C**
 27 **felony if, while committing it, the person draws or uses a deadly**
 28 **weapon or inflicts bodily injury on another person.**

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

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

35 **(2) A shelter care facility (as defined in IC 31-9-2-117) in**
 36 **which a child is detained under IC 31 or used for a child**
 37 **awaiting adjudication or adjudicated under IC 31 as a child**
 38 **in need of services or a delinquent child.**

39 **(b) Except as provided in subsection (d), a person who, without**
 40 **the prior authorization of the person in charge of a penal facility**
 41 **or juvenile facility knowingly or intentionally:**

42 **(1) delivers, or carries into the penal facility or juvenile**
 43 **facility with intent to deliver, an article to an inmate or child**
 44 **of the facility;**

45 **(2) carries, or receives with intent to carry out of the penal**
 46 **facility or juvenile facility, an article from an inmate or child**
 47 **of the facility;**

48 **(3) delivers, or carries to a worksite with the intent to deliver,**
 49 **alcoholic beverages to an inmate or child of a jail work crew**
 50 **or community work crew; or**

51 **(4) possesses in or carries into a penal facility or a juvenile**

- 1 facility:
- 2 (A) a controlled substance; or
- 3 (B) a deadly weapon;
- 4 commits trafficking with an inmate, a Class A misdemeanor.
- 5 (c) If the person who committed the offense under subsection (b)
- 6 is an employee of:
- 7 (1) the department of correction; or
- 8 (2) a penal facility;
- 9 and the article is a cigarette or tobacco product (as defined in
- 10 IC 6-7-2-5), the court shall impose a mandatory five thousand
- 11 dollar (\$5,000) fine under IC 35-50-3-2, in addition to any term of
- 12 imprisonment imposed under IC 35-50-3-2.
- 13 (d) The offense under subsection (b) is a Class C felony if the
- 14 article is:
- 15 (1) a controlled substance;
- 16 (2) a deadly weapon; or
- 17 (3) a cellular telephone or other wireless or cellular
- 18 communications device.
- 19 Sec. 6. (a) As used in this section, "contraband" means the
- 20 following:
- 21 (1) Alcohol.
- 22 (2) A cigarette or tobacco product.
- 23 (3) A controlled substance.
- 24 (4) An item that may be used as a weapon.
- 25 (b) As used in this section, "inmate outside a facility" means a
- 26 person who is incarcerated in a penal facility or detained in a
- 27 juvenile facility on a full-time basis as the result of a conviction or
- 28 a juvenile adjudication but who has been or is being transported to
- 29 another location to participate in or prepare for a judicial
- 30 proceeding. The term does not include the following:
- 31 (1) An adult or juvenile pretrial detainee.
- 32 (2) A person serving an intermittent term of imprisonment or
- 33 detention.
- 34 (3) A person serving a term of imprisonment or detention as:
- 35 (A) a condition of probation;
- 36 (B) a condition of a community corrections program;
- 37 (C) part of a community transition program;
- 38 (D) part of a reentry court program;
- 39 (E) part of a work release program; or
- 40 (F) part of a community based program that is similar to
- 41 a program described in clauses (A) through (E).
- 42 (4) A person who has escaped from incarceration or walked
- 43 away from secure detention.
- 44 (5) A person on temporary leave (as described in IC 11-10-9)
- 45 or temporary release (as described in IC 11-10-10).
- 46 (c) A person who, with the intent of providing contraband to an
- 47 inmate outside a facility:
- 48 (1) delivers contraband to an inmate outside a facility; or
- 49 (2) places contraband in a location where an inmate outside
- 50 a facility could obtain the contraband;
- 51 commits trafficking with an inmate outside a facility, a Class A

1 misdemeanor. However, the offense is a Class D felony if the
 2 contraband is an item described in subsection (a)(3), and a Class C
 3 felony if the contraband is an item described in subsection (a)(4).

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

7 (1) is used; or

8 (2) is intended to be used;

9 **in a manner that is readily capable of causing bodily injury**
 10 **commits a Class C felony. However, the offense is a Class B felony**
 11 **if the device, equipment, chemical substance, or other material is**
 12 **a deadly weapon.**

13 **Sec. 8. A person who knowingly or intentionally possesses a**
 14 **cellular telephone or other wireless or cellular communications**
 15 **device while incarcerated in a county jail commits a Class A**
 16 **misdemeanor.**

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

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

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

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

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

33 (b) A service provider who knowingly or intentionally engages
 34 in sexual intercourse or deviate sexual conduct with a person who
 35 is subject to lawful detention commits sexual misconduct, a Class
 36 C felony.

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

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

41 (2) subject to lawful detention;

42 commits sexual misconduct, a Class B felony.

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

45 (e) This section does not apply to sexual intercourse or deviate
 46 sexual conduct between spouses.

47 Chapter 4. Firefighting and Emergency Services

48 **Sec. 1. As used in this chapter, "dispatched firefighter" means**
 49 **a member of:**

50 (1) the fire company having jurisdiction over an emergency
 51 incident area; or

1 (2) a fire company that has entered into a mutual aid
2 agreement with the fire company having jurisdiction over an
3 emergency incident area;
4 who has been dispatched by the local fire department having
5 jurisdiction over the particular emergency incident area.

6 Sec. 2. As used in this chapter, "emergency incident area"
7 means the area surrounding a structure, vehicle, property, or area
8 that is:

9 (1) defined by police or firefighters with flags, barricades,
10 barrier tape, or other markers; or

11 (2) one hundred and fifty (150) feet in all directions from the
12 perimeter of the emergency incident;

13 whichever is greater.

14 Sec. 3. As used in this chapter, "firefighter" has the meaning set
15 forth in IC 9-18-34-1.

16 Sec. 4. As used in this chapter, "fire protective clothing and fire
17 protective gear" includes any of the following items generally used
18 by firefighters:

19 (1) Outer fire retardant clothing and headgear.

20 (2) Fire gloves.

21 (3) Self contained breathing apparatus.

22 (4) Emergency medical services protective gear.

23 (5) Hazardous materials protective gear.

24 Sec. 5. A person who is not a firefighter who knowingly or
25 intentionally refuses to leave an emergency incident area
26 immediately after being requested to do so by a firefighter or law
27 enforcement officer commits a Class A misdemeanor.

28 Sec. 6. A firefighter who:

29 (1) has not been dispatched to an emergency incident area;

30 (2) enters an emergency incident area; and

31 (3) refuses to leave an emergency incident area immediately
32 after being requested to do so by a dispatched firefighter or
33 law enforcement officer;

34 commits a Class C infraction.

35 Sec. 7. A person other than a firefighter who, with intent to
36 mislead a firefighter or law enforcement officer as to the person's
37 status as a dispatched firefighter, knowingly or intentionally enters
38 an emergency incident area while wearing, transporting, or
39 otherwise possessing a uniform, fire protective clothing, or fire
40 protective gear commits a Class A misdemeanor. However, the
41 offense is a Class D felony if, as a proximate result of the person
42 entering the emergency incident area, a person or firefighter
43 suffers bodily injury.

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

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

51 (b) A person who knowingly or intentionally obstructs or

1 interferes with an emergency medical person performing or
 2 attempting to perform the emergency medical person's emergency
 3 functions or duties commits obstructing an emergency medical
 4 person, a Class B misdemeanor.

5 **Chapter 5. Illegal Alien Offenses**

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

7 (1) A church or religious organization conducting an activity
 8 that is protected by the First Amendment to the United States
 9 Constitution.

10 (2) The provision of assistance for health care items and
 11 services that are necessary for the treatment of an emergency
 12 medical condition of an individual.

13 (3) A health care provider (as defined in IC 16-18-2-163(a))
 14 that is providing health care services.

15 (4) An attorney or other person that is providing legal
 16 services.

17 (5) A person who:

18 (A) is a spouse of an alien or who stands in relation of
 19 parent or child to an alien; and

20 (B) would otherwise commit an offense under this chapter
 21 with respect to the alien.

22 (6) A provider that:

23 (A) receives federal or state funding to provide services to
 24 victims of domestic violence, sexual assault, human
 25 trafficking, or stalking; and

26 (B) is providing the services described in clause (A).

27 (7) An employee of Indiana or a political subdivision (as
 28 defined in IC 36-1-2-13) if the employee is acting within the
 29 scope of the employee's employment.

30 (8) An employee of a school acting within the scope of the
 31 employee's employment.

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

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

35 (1) transports; or

36 (2) moves;

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

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

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

45 (1) conceals;

46 (2) harbors; or

47 (3) shields from detection;

48 an alien in any place, including a building or means of
 49 transportation, for the purpose of commercial advantage or
 50 private financial gain, knowing or in reckless disregard of the fact
 51 that the alien has come to, entered, or remained in the United

1 States in violation of law, commits harboring an illegal alien, a
2 Class A misdemeanor.

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

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

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

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

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

19 SECTION 55. IC 35-44.2 IS ADDED TO THE INDIANA CODE
20 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 2012]:

22 **ARTICLE 44.2. OFFENSES AGAINST STATE PUBLIC**
23 **ADMINISTRATION**

24 **Chapter 1. Interference with State Government**

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

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

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

33 **(c) A state supervisor who knowingly or intentionally:**

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

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

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

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

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

- 51 **(1) filing a complaint with the state ethics commission or the**

1 inspector general;

2 (2) providing information to the state ethics commission or
3 the inspector general; or

4 (3) testifying at a state ethics commission proceeding;

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

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

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

10 (2) knowingly, intentionally, or recklessly provided false
11 information or testimony to the state ethics commission or the
12 inspector general.

13 Sec. 3. A person who:

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

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

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

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

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

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

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

40 commits obstructing the inspector general, a Class A misdemeanor.

41 Sec. 4. A person who:

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

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

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

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

- 1 (A) the department of correction ombudsman;
 2 (B) a person who has filed a complaint; or
 3 (C) a person who provides information to the department
 4 of correction ombudsman;

5 commits obstructing the department of correction ombudsman, a
 6 Class A misdemeanor.

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

- 8 (1) interferes with or prevents the completion of the work of
 9 a department of child services ombudsman;
 10 (2) offers compensation to a department of child services
 11 ombudsman in an effort to affect the outcome of an
 12 investigation or a potential investigation;
 13 (3) retaliates against another person who provides
 14 information to a department of child services ombudsman; or
 15 (4) threatens a department of child services ombudsman, a
 16 person who has filed a complaint, or a person who provides
 17 information to a department of child services ombudsman,
 18 because of an investigation or potential investigation;

19 commits interference with the department of child services
 20 ombudsman, a Class A misdemeanor.

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

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

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

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

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

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

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

45 Sec. 12. A person who violates commercial driver training
 46 school requirements is subject to a civil action for an infraction
 47 under IC 5-2-6.5-15.

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

50 Sec. 14. A consultant who fails to file a disclosure concerning a
 51 public works project is subject to a civil action for an infraction

1 under IC 5-16-11-11.

2 **Chapter 2. Purchasing Offenses**

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

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

14 **(1) keep a cashbook (as defined in IC 5-13-5-1);**

15 **(2) not later than one (1) business day following the receipt of**
 16 **the funds, enter into the cashbook, by item, all receipts of**
 17 **public funds; or**

18 **(3) balance the cashbook daily to show funds on hand at the**
 19 **close of each day;**

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

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

22 **(1) A state educational institution (as defined in**
 23 **IC 21-7-13-32).**

24 **(2) A municipality (as defined in IC 36-1-2-11).**

25 **(3) A county.**

26 **(4) An airport authority operating in a consolidated city.**

27 **(5) A capital improvements board of managers operating in**
 28 **a consolidated city.**

29 **(6) A board of directors of a public transportation**
 30 **corporation operating in a consolidated city.**

31 **(7) A municipal corporation organized under IC 16-22-8-6.**

32 **(8) A public library.**

33 **(9) A library services authority.**

34 **(10) A hospital organized under IC 16-22 or a hospital**
 35 **organized under IC 16-23.**

36 **(11) A school corporation (as defined in IC 36-1-2-17).**

37 **(12) A regional water or sewer district organized under**
 38 **IC 13-26 or under IC 13-3-2 (before its repeal).**

39 **(13) A municipally owned utility (as defined in IC 8-1-2-1).**

40 **(14) A board of an airport authority under IC 8-22-3.**

41 **(15) A conservancy district.**

42 **(16) A board of aviation commissioners under IC 8-22-2.**

43 **(17) A public transportation corporation under IC 36-9-4.**

44 **(18) A commuter transportation district under IC 8-5-15.**

45 **(19) A solid waste management district established under**
 46 **IC 13-21 or IC 13-9.5 (before its repeal).**

47 **(20) A county building authority under IC 36-9-13.**

48 **(21) A soil and water conservation district established under**
 49 **IC 14-32.**

50 **(22) The northwestern Indiana regional planning commission**
 51 **established by IC 36-7-7.6-3.**

- 1 (23) The commuter rail service board established under
2 IC 8-24-5.
- 3 (24) The regional demand and scheduled bus service board
4 established under IC 8-24-6.
- 5 (b) A disbursing officer (as described in IC 5-11-10) who
6 knowingly or intentionally pays a claim that is not:
7 (1) fully itemized; and
8 (2) properly certified to by the claimant or some authorized
9 person in the claimant's behalf, with the following words of
10 certification: I hereby certify that the foregoing account is
11 just and correct, that the amount claimed is legally due, after
12 allowing all just credits, and that no part of the same has been
13 paid;
14 commits a violation of the itemization and certification rule, a
15 Class A misdemeanor.
- 16 Sec. 4. (a) As used in this section, a "purchase" means:
17 (1) the purchase of materials, equipment, goods and supplies
18 for at least ten thousand dollars (\$10,000); or
19 (2) the leasing of equipment for at least five thousand dollars
20 (\$5,000).
- 21 (b) A state purchaser of materials (as described in IC 5-17-1)
22 who fails to advertise (as defined in IC 5-3-1) for, receive, or
23 consider bids for purchase commits unlawful competitive bidding,
24 a Class A misdemeanor.
- 25 Sec. 5. A person who knowingly, intentionally, or recklessly
26 violates:
27 (1) IC 5-10.4-3-10;
28 (2) IC 5-10.4-3-12;
29 (3) IC 5-10.4-3-14; or
30 (4) IC 5-10.4-3-15;
31 commits improper teacher's retirement fund accounting, a Class
32 A misdemeanor.
- 33 Sec. 6. A board of trustees or correctional facility that borrows
34 without legislative approval under IC 4-10-14-1 is subject to a civil
35 action for an infraction under IC 4-10-14-2.
- 36 Sec. 7. A person who improperly disposes of a law enforcement
37 vehicle is subject to a civil action for an infraction under
38 IC 5-22-22-9.
- 39 Chapter 3. State Public Works Contracting
- 40 Sec. 1. A person who violates provisions relating to state public
41 works contracts is subject to criminal prosecution under
42 IC 4-13.6-4-14.
- 43 Sec. 2. A person who has a conflict of interest with respect to a
44 hospital bonding authority contract is subject to criminal
45 prosecution under IC 5-1-4-22.
- 46 Sec. 3. A member or person employed by the law enforcement
47 academy building commission who has a conflict of interest with
48 respect to an action by the commission is subject to criminal
49 prosecution under IC 5-2-2-11.
- 50 Sec. 4. A person who commits a wage scale violation in a state
51 public works contract is subject to criminal prosecution under

1 **IC 5-16-7-3.**

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

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

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

8 **Sec. 1. A person who discloses confidential information is**
 9 **subject to action under IC 5-14-3-10.**

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

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

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

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

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

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

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

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

31 SECTION 56. IC 35-45-6-1, AS AMENDED BY P.L.182-2011,
 32 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2012]: Sec. 1. (a) The definitions in this section apply
 34 throughout this chapter.

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

39 (c) "Enterprise" means:

40 (1) a sole proprietorship, corporation, limited liability company,
 41 partnership, business trust, or governmental entity; or

42 (2) a union, an association, or a group, whether a legal entity or
 43 merely associated in fact.

44 (d) "Pattern of racketeering activity" means engaging in at least two
 45 (2) incidents of racketeering activity that have the same or similar
 46 intent, result, accomplice, victim, or method of commission, or that are
 47 otherwise interrelated by distinguishing characteristics that are not
 48 isolated incidents. However, the incidents are a pattern of racketeering
 49 activity only if at least one (1) of the incidents occurred after August
 50 31, 1980, and if the last of the incidents occurred within five (5) years
 51 after a prior incident of racketeering activity.

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

- 4 (1) A provision of IC 23-19, or of a rule or order issued under
 5 IC 23-19.
- 6 (2) A violation of IC 35-45-9.
- 7 (3) A violation of IC 35-47.
- 8 (4) A violation of IC 35-49-3.
- 9 (5) Murder (IC 35-42-1-1).
- 10 (6) Battery as a Class C felony (IC 35-42-2-1).
- 11 (7) Kidnapping (IC 35-42-3-2).
- 12 (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- 13 (9) Child exploitation (IC 35-42-4-4).
- 14 (10) Robbery (IC 35-42-5-1).
- 15 (11) Carjacking (IC 35-42-5-2).
- 16 (12) Arson (IC 35-43-1-1).
- 17 (13) Burglary (IC 35-43-2-1).
- 18 (14) Theft (IC 35-43-4-2).
- 19 (15) Receiving stolen property (IC 35-43-4-2).
- 20 (16) Forgery (IC 35-43-5-2).
- 21 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
- 22 (18) Bribery (~~IC 35-44-1-1~~): **(IC 35-44.1-1-2)**.
- 23 (19) Official misconduct (~~IC 35-44-1-2~~): **(IC 35-44.1-1-1)**.
- 24 (20) Conflict of interest (~~IC 35-44-1-3~~): **(IC 35-44.1-1-4)**.
- 25 (21) Perjury (~~IC 35-44-2-1~~): **(IC 35-44.1-2-1)**.
- 26 (22) Obstruction of justice (~~IC 35-44-3-4~~): **(IC 35-44.1-2-2)**.
- 27 (23) Intimidation (IC 35-45-2-1).
- 28 (24) Promoting prostitution (IC 35-45-4-4).
- 29 (25) Professional gambling (IC 35-45-5-3).
- 30 (26) Maintaining a professional gambling site (IC
 31 35-45-5-3.5(b)).
- 32 (27) Promoting professional gambling (IC 35-45-5-4).
- 33 (28) Dealing in or manufacturing cocaine or a narcotic drug (IC
 34 35-48-4-1).
- 35 (29) Dealing in or manufacturing methamphetamine (IC
 36 35-48-4-1.1).
- 37 (30) Dealing in a schedule I, II, or III controlled substance (IC
 38 35-48-4-2).
- 39 (31) Dealing in a schedule IV controlled substance (IC
 40 35-48-4-3).
- 41 (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 42 (33) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 43 cannabinoid (IC 35-48-4-10).
- 44 (34) Money laundering (IC 35-45-15-5).
- 45 (35) A violation of IC 35-47.5-5.
- 46 (36) A violation of any of the following:
- 47 (A) IC 23-14-48-9.
- 48 (B) IC 30-2-9-7(b).
- 49 (C) IC 30-2-10-9(b).
- 50 (D) IC 30-2-13-38(f).

1 SECTION 57. IC 35-47-1-7, AS AMENDED BY SEA 26-2012,
 2 SECTION 139, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2012]: Sec. 7. "Proper person" means a person
 4 who:

- 5 (1) does not have a conviction for resisting law enforcement
 6 under ~~IC 35-44-3-3~~ **IC 35-44.1-3-1** within five (5) years before
 7 the person applies for a license or permit under this chapter;
- 8 (2) does not have a conviction for a crime for which the person
 9 could have been sentenced for more than one (1) year;
- 10 (3) does not have a conviction for a crime of domestic violence
 11 (as defined in IC 35-31.5-2-78), unless a court has restored the
 12 person's right to possess a firearm under IC 35-47-4-7;
- 13 (4) is not prohibited by a court order from possessing a handgun;
- 14 (5) does not have a record of being an alcohol or drug abuser as
 15 defined in this chapter;
- 16 (6) does not have documented evidence which would give rise to
 17 a reasonable belief that the person has a propensity for violent or
 18 emotionally unstable conduct;
- 19 (7) does not make a false statement of material fact on the
 20 person's application;
- 21 (8) does not have a conviction for any crime involving an inability
 22 to safely handle a handgun;
- 23 (9) does not have a conviction for violation of the provisions of
 24 this article within five (5) years of the person's application;
- 25 (10) does not have an adjudication as a delinquent child for an act
 26 that would be a felony if committed by an adult, if the person
 27 applying for a license or permit under this chapter is less than
 28 twenty-three (23) years of age;
- 29 (11) has not been involuntarily committed, other than a temporary
 30 commitment for observation or evaluation, to a mental institution
 31 by a court, board, commission, or other lawful authority;
- 32 (12) has not been the subject of a:
 - 33 (A) ninety (90) day commitment as a result of proceeding
 34 under IC 12-26-6; or
 - 35 (B) regular commitment under IC 12-26-7; or
- 36 (13) has not been found by a court to be mentally incompetent,
 37 including being found:
 - 38 (A) not guilty by reason of insanity;
 - 39 (B) guilty but mentally ill; or
 - 40 (C) incompetent to stand trial.

41 SECTION 58. IC 35-47-4-5, AS AMENDED BY P.L.151-2006,
 42 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 43 JULY 1, 2012]: Sec. 5. (a) As used in this section, "serious violent
 44 felon" means a person who has been convicted of:

- 45 (1) committing a serious violent felony in:
 - 46 (A) Indiana; or
 - 47 (B) any other jurisdiction in which the elements of the crime
 48 for which the conviction was entered are substantially similar
 49 to the elements of a serious violent felony; or
- 50 (2) attempting to commit or conspiring to commit a serious

- 1 violent felony in:
- 2 (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;
- 3 or
- 4 (B) any other jurisdiction in which the elements of the crime
- 5 for which the conviction was entered are substantially similar
- 6 to the elements of attempting to commit or conspiring to
- 7 commit a serious violent felony.
- 8 (b) As used in this section, "serious violent felony" means:
- 9 (1) murder (IC 35-42-1-1);
- 10 (2) voluntary manslaughter (IC 35-42-1-3);
- 11 (3) reckless homicide not committed by means of a vehicle (IC
- 12 35-42-1-5);
- 13 (4) battery as a:
- 14 (A) Class A felony (IC 35-42-2-1(a)(5));
- 15 (B) Class B felony (IC 35-42-2-1(a)(4)); or
- 16 (C) Class C felony (IC 35-42-2-1(a)(3));
- 17 (5) aggravated battery (IC 35-42-2-1.5);
- 18 (6) kidnapping (IC 35-42-3-2);
- 19 (7) criminal confinement (IC 35-42-3-3);
- 20 (8) rape (IC 35-42-4-1);
- 21 (9) criminal deviate conduct (IC 35-42-4-2);
- 22 (10) child molesting (IC 35-42-4-3);
- 23 (11) sexual battery as a Class C felony (IC 35-42-4-8);
- 24 (12) robbery (IC 35-42-5-1);
- 25 (13) carjacking (IC 35-42-5-2);
- 26 (14) arson as a Class A felony or Class B felony (IC
- 27 35-43-1-1(a));
- 28 (15) burglary as a Class A felony or Class B felony (IC
- 29 35-43-2-1);
- 30 (16) assisting a criminal as a Class C felony (~~IC 35-44-3-2~~) **(IC**
- 31 **35-44.1-2-5)**;
- 32 (17) resisting law enforcement as a Class B felony or Class C
- 33 felony (~~IC 35-44-3-3~~); **(IC 35-44.1-3-1)**;
- 34 (18) escape as a Class B felony or Class C felony (~~IC 35-44-3-5~~);
- 35 **(IC 35-44.1-3-4)**;
- 36 (19) trafficking with an inmate as a Class C felony (~~IC~~
- 37 ~~35-44-3-9~~); **(IC 35-44.1-3-5)**;
- 38 (20) criminal gang intimidation (IC 35-45-9-4);
- 39 (21) stalking as a Class B felony or Class C felony (IC
- 40 35-45-10-5);
- 41 (22) incest (IC 35-46-1-3);
- 42 (23) dealing in or manufacturing cocaine or a narcotic drug (IC
- 43 35-48-4-1);
- 44 (24) dealing in methamphetamine (IC 35-48-4-1.1);
- 45 (25) dealing in a schedule I, II, or III controlled substance (IC
- 46 35-48-4-2);
- 47 (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- 48 or
- 49 (27) dealing in a schedule V controlled substance (IC 35-48-4-4).
- 50 (c) A serious violent felon who knowingly or intentionally possesses

1 a firearm commits unlawful possession of a firearm by a serious violent
2 felon, a Class B felony.

3 SECTION 59. IC 35-50-1-2, AS AMENDED BY P.L.126-2008,
4 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2012]: Sec. 2. (a) As used in this section, "crime of violence"
6 means the following:

- 7 (1) Murder (IC 35-42-1-1).
- 8 (2) Attempted murder (IC 35-41-5-1).
- 9 (3) Voluntary manslaughter (IC 35-42-1-3).
- 10 (4) Involuntary manslaughter (IC 35-42-1-4).
- 11 (5) Reckless homicide (IC 35-42-1-5).
- 12 (6) Aggravated battery (IC 35-42-2-1.5).
- 13 (7) Kidnapping (IC 35-42-3-2).
- 14 (8) Rape (IC 35-42-4-1).
- 15 (9) Criminal deviate conduct (IC 35-42-4-2).
- 16 (10) Child molesting (IC 35-42-4-3).
- 17 (11) Sexual misconduct with a minor as a Class A felony under
- 18 IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
- 19 (12) Robbery as a Class A felony or a Class B felony (IC
- 20 35-42-5-1).
- 21 (13) Burglary as a Class A felony or a Class B felony (IC
- 22 35-43-2-1).
- 23 (14) Operating a motor vehicle while intoxicated causing death
- 24 (IC 9-30-5-5).
- 25 (15) Operating a motor vehicle while intoxicated causing serious
- 26 bodily injury to another person (IC 9-30-5-4).
- 27 (16) Resisting law enforcement as a felony (~~IC 35-44-3-3~~): **(IC**
- 28 **35-44.1-3-1).**

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

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

- 35 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
- 36 (2) mitigating circumstances in IC 35-38-1-7.1(b);

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

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

- 48 (1) before the date the person is discharged from probation,
- 49 parole, or a term of imprisonment imposed for the first crime; or
- 50 (2) while the person is released:

1 (A) upon the person's own recognizance; or
 2 (B) on bond;
 3 the terms of imprisonment for the crimes shall be served consecutively,
 4 regardless of the order in which the crimes are tried and sentences are
 5 imposed.

6 (e) If the factfinder determines under IC 35-50-2-11 that a person
 7 used a firearm in the commission of the offense for which the person
 8 was convicted, the term of imprisonment for the underlying offense and
 9 the additional term of imprisonment imposed under IC 35-50-2-11
 10 must be served consecutively.

11 SECTION 60. IC 35-50-2-2, AS AMENDED BY P.L.64-2008,
 12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2012]: Sec. 2. (a) The court may suspend any part of a
 14 sentence for a felony, except as provided in this section or in section
 15 2.1 of this chapter.

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

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

23 (2) The crime committed was a Class C felony and less than seven
 24 (7) years have elapsed between the date the person was
 25 discharged from probation, imprisonment, or parole, whichever
 26 is later, for a prior unrelated felony conviction and the date the
 27 person committed the Class C felony for which the person is
 28 being sentenced.

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

38 (4) The felony committed was:

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

40 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
 41 causing death;

42 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;

43 (D) kidnapping (IC 35-42-3-2);

44 (E) confinement (IC 35-42-3-3) with a deadly weapon;

45 (F) rape (IC 35-42-4-1) as a Class A felony;

46 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
 47 felony;

48 (H) except as provided in subsection (i), child molesting (IC
 49 35-42-4-3) as a Class A or Class B felony, unless:

50 (i) the felony committed was child molesting as a Class B

- 1 felony;
- 2 (ii) the victim was not less than twelve (12) years old at the
- 3 time the offense was committed;
- 4 (iii) the person is not more than four (4) years older than the
- 5 victim, or more than five (5) years older than the victim if
- 6 the relationship between the person and the victim was a
- 7 dating relationship or an ongoing personal relationship (not
- 8 including a family relationship);
- 9 (iv) the person did not have a position of authority or
- 10 substantial influence over the victim; and
- 11 (v) the person has not committed another sex offense (as
- 12 defined in IC 11-8-8-5.2) (including a delinquent act that
- 13 would be a sex offense if committed by an adult) against any
- 14 other person;
- 15 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
- 16 with a deadly weapon;
- 17 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 18 injury;
- 19 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
- 20 or with a deadly weapon;
- 21 (L) resisting law enforcement (~~IC 35-44-3-3~~) **(IC 35-44.1-3-1)**
- 22 with a deadly weapon;
- 23 (M) escape (~~IC 35-44-3-5~~) **(IC 35-44.1-3-4)** with a deadly
- 24 weapon;
- 25 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 26 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the
- 27 court finds the person possessed a firearm (as defined in
- 28 IC 35-47-1-5) at the time of the offense, or the person
- 29 delivered or intended to deliver to a person under eighteen
- 30 (18) years of age at least three (3) years junior to the person
- 31 and was on a school bus or within one thousand (1,000) feet
- 32 of:
- 33 (i) school property;
- 34 (ii) a public park;
- 35 (iii) a family housing complex; or
- 36 (iv) a youth program center;
- 37 (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court
- 38 finds the person possessed a firearm (as defined in
- 39 IC 35-47-1-5) at the time of the offense, or the person
- 40 delivered or intended to deliver the methamphetamine pure or
- 41 adulterated to a person under eighteen (18) years of age at
- 42 least three (3) years junior to the person and was on a school
- 43 bus or within one thousand (1,000) feet of:
- 44 (i) school property;
- 45 (ii) a public park;
- 46 (iii) a family housing complex; or
- 47 (iv) a youth program center;
- 48 (Q) dealing in a schedule I, II, or III controlled substance (IC
- 49 35-48-4-2) if the court finds the person possessed a firearm (as
- 50 defined in IC 35-47-1-5) at the time of the offense, or the

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

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

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

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

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

16 (U) disarming a law enforcement officer (~~IC 35-44-3-3.5~~; **IC**
 17 **35-44.1-3-2**).

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

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

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

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

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

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

38 (i) If a person is:

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

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

44 SECTION 61. IC 35-50-5-1.1, AS AMENDED BY P.L.119-2005,
 45 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 46 JULY 1, 2012]: Sec. 1.1. (a) Whenever a person is convicted of a
 47 misdemeanor under ~~IC 35-44-1~~, **IC 35-44.1-1**, the court may include
 48 in the sentence an order rendering the person incapable of holding a
 49 public office of trust or profit for a fixed period of not more than ten
 50 (10) years.

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

4 (c) This subsection applies whenever:

5 (1) the court enters an order under this section that applies to a
 6 person who is an officer of a governmental entity (as defined in
 7 IC 35-41-1-12); and

8 (2) a vacancy occurs in the office held by the person as the result
 9 of the court's order.

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

18 SECTION 62. IC 35-51-4-1, AS AMENDED BY HEA 1207-2012,
 19 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 4:

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

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

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

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

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

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

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

28 ~~IC 4-13-1.2-11 (Concerning the department of correction
 29 ombudsman):~~

30 ~~IC 4-13-4.1-4 (Concerning the department of administration):~~

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

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

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

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

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

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

38 IC 4-30-3-19.5 (Concerning the lottery).

39 IC 4-30-3-19.7 (Concerning the lottery).

40 IC 4-30-12-5 (Concerning the lottery).

41 IC 4-30-13-1 (Concerning the lottery).

42 IC 4-30-14-1 (Concerning the lottery).

43 IC 4-30-14-2 (Concerning the lottery).

44 IC 4-30-14-3 (Concerning the lottery).

45 IC 4-30-14-4 (Concerning the lottery).

46 IC 4-30-14-5 (Concerning ~~the lottery~~: **horse racing**).

47 IC 4-30-14-6 (Concerning the lottery).

48 IC 4-31-13-3 (Concerning horse racing).

49 IC 4-31-13-3.5 (Concerning horse racing).

50 IC 4-31-13-9 (Concerning horse racing).

- 1 IC 4-32.2-8-4 (Concerning charity gaming).
 2 IC 4-33-10-1 (Concerning riverboat gambling).
 3 IC 4-33-10-2 (Concerning riverboat gambling).
 4 IC 4-33-10-2.1 (Concerning riverboat gambling).
 5 IC 4-33-10-2.5 (Concerning riverboat gambling).
 6 IC 4-33-22-14 (Concerning boxing and mixed martial arts).
 7 IC 4-33-22-40 (Concerning boxing and mixed martial arts).
 8 IC 4-35-9-2 (Concerning gambling games at racetracks).
 9 IC 4-35-9-3 (Concerning gambling games at racetracks).
 10 IC 4-35-9-4 (Concerning gambling games at racetracks).
 11 IC 4-35-9-5 (Concerning gambling games at racetracks).
 12 IC 4-36-6-5 (Concerning gambling in certain establishments).
 13 SECTION 63. IC 35-51-5-1, AS ADDED BY P.L.70-2011,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 5:
 16 IC 5-1-4-22 (Concerning hospital bonding authorities).
 17 IC 5-2-2-11 (Concerning the law enforcement academy building
 18 commission).
 19 IC 5-2-4-7 (Concerning criminal intelligence information).
 20 IC 5-10.4-3-16 (Concerning the Indiana state teacher's retirement
 21 fund).
 22 IC 5-11-1-18 (Concerning state board of accounts).
 23 ~~IC 5-11-10-3 (Concerning certification of claims):~~
 24 ~~IC 5-13-14-3 (Concerning public funds):~~
 25 ~~IC 5-13-14-4 (Concerning public funds):~~
 26 ~~IC 5-14-3-10 (Concerning access to public records):~~
 27 IC 5-15-6-8 (Concerning local public records commissions).
 28 IC 5-16-7-3 (Concerning wage scale of contractor's and
 29 subcontractors employees).
 30 IC 5-16-9-5 (Concerning parking for persons with physical
 31 disabilities).
 32 ~~IC 5-17-1-5 (Concerning public purchases):~~
 33 ~~IC 5-17-1-6 (Concerning public purchases):~~
 34 IC 5-28-15-7 (Concerning enterprise zones).
 35 IC 5-28-15-8 (Concerning enterprise zones).
 36 SECTION 64. IC 36-8-12-10.5, AS AMENDED BY P.L.63-2009,
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2012]: Sec. 10.5. (a) This section does not apply to an
 39 employee of the state subject to IC 4-15-10-7.
 40 (b) This section applies to an employee of a political subdivision
 41 who:
 42 (1) is a volunteer firefighter or volunteer member; and
 43 (2) has notified the employee's employer in writing that the
 44 employee is a volunteer firefighter or volunteer member.
 45 (c) The political subdivision employer may not discipline an
 46 employee:
 47 (1) for being absent from employment by reason of responding to
 48 a fire or emergency call that was received before the time that the
 49 employee was to report to employment;
 50 (2) for leaving the employee's duty station to respond to a fire or

1 an emergency call if the employee has secured authorization from
 2 the employee's supervisor to leave the duty station in response to
 3 a fire or an emergency call received after the employee has
 4 reported to work; or

5 (3) for:

6 (A) an injury; or

7 (B) an absence from work because of an injury;

8 that occurs while the employee is engaged in emergency
 9 firefighting or other emergency response.

10 However, for each instance of emergency firefighting activity or other
 11 emergency response that results in an injury to an employee,
 12 subdivision (3) applies only to the period of the employee's absence
 13 from work that does not exceed six (6) months from the date of the
 14 injury.

15 (d) The political subdivision employer may require an employee
 16 who has been absent from employment as set forth in subsection (c) to
 17 present a written statement from the fire chief or other officer in charge
 18 of the volunteer fire department, or officer in charge of the volunteer
 19 emergency medical services association, at the time of the absence or
 20 injury indicating that the employee was engaged in emergency
 21 firefighting or emergency activity at the time of the absence or injury.

22 (e) The political subdivision employer may require an employee
 23 who is injured or absent from work as described in subsection (c)(3) to
 24 provide evidence from a physician or other medical authority showing:

25 (1) treatment for the injury at the time of the absence; and

26 (2) a connection between the injury and the employee's
 27 emergency firefighting or other emergency response activities.

28 (f) To the extent required by federal or state law, information
 29 obtained under subsection (e) by a political subdivision employer must
 30 be:

31 (1) retained in a separate medical file created for the employee;
 32 and

33 (2) treated as a confidential medical record.

34 (g) An employee who is disciplined by the employer in violation of
 35 subsection (c) may bring a civil action against the employer in the
 36 county of employment. In the action, the employee may seek the
 37 following:

38 (1) Payment of back wages.

39 (2) Reinstatement to the employee's former position.

40 (3) Fringe benefits wrongly denied or withdrawn.

41 (4) Seniority rights wrongly denied or withdrawn.

42 An action brought under this subsection must be filed within one (1)
 43 year after the date of the disciplinary action.

44 (h) A public servant who permits or authorizes an employee of a
 45 political subdivision under the supervision of the public servant to be
 46 absent from employment as set forth in subsection (c) is not considered
 47 to have committed a violation of ~~IC 35-44-2-4(b)~~. **IC 35-44.1-1-3(b)**.

48 **SECTION 65. [EFFECTIVE JULY 1, 2012] (a) In repealing**
 49 **IC 4-12-9 by HEA 1002-2012, the general assembly recognizes that**
 50 **IC 4-12-9-2 was amended by SEA 127-2012, SECTION 18. The**

- 1 **general assembly intends to repeal IC 4-12-9.**
2 **(b) In repealing IC 15-11-10 by HEA 1002-2012, the general**
3 **assembly recognizes that IC 15-11-10-3 was amended by SEA**
4 **127-2012, SECTION 99. The general assembly intends to repeal**
5 **IC 15-11-10.**
6 **(c) This SECTION expires December 31, 2012.**
(Reference is to ESB 262 as printed February 17, 2012.)

Conference Committee Report
on
Engrossed Senate Bill 262

Signed by:

Senator Bray
Chairperson

Representative Steuerwald

Senator Taylor

Representative Lawson L

Senate Conferees

House Conferees