

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

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

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 11-8-1-3.1 IS ADDED TO THE INDIANA CODE
- 4 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 5 **1, 2012]: Sec. 3.1. "Average daily marginal cost of incarcerating an**
- 6 **offender" means the average daily cost to the department to**
- 7 **commit one (1) additional offender to the department, as**
- 8 **determined under IC 11-10-13-1(b)."**
- 9 Page 3, between lines 11 and 12, begin a new paragraph and insert:
- 10 "SECTION 3. IC 11-10-13-1 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. **(a)** The department
- 12 shall develop a methodology for determining the average daily cost of
- 13 incarcerating an offender.
- 14 **(b) The department shall develop a methodology for**
- 15 **determining the average daily marginal cost of incarcerating an**
- 16 **offender. The costs to be considered in determining the average**

1 **daily marginal cost of incarcerating an offender:**

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

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

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

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

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

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

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

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

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

23 **Sec. 3. (a) Before September 1, 2013, the department shall**
24 **establish a baseline average number of Class D felony offenders**
25 **committed annually to the department by each county based on**
26 **each county's Class D felony commitments to the department in the**
27 **2008, 2009, 2010, and 2011 calendar years.**

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

38 **(c) Before March 1 of each year, the department shall calculate**

1 the incentive described in subsection (b) for each county using the
2 following formula:

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

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

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

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

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

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

24 (2) more offenders than one hundred five percent (105%) of
25 the baseline average established for the county under section
26 3(a) of this chapter;

27 whichever is greater.

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

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

35 **STEP TWO:** If the STEP ONE remainder is ten (10) or less or
36 less than one hundred five percent (105%) of the baseline
37 average established for the county under section 3(a) of this
38 chapter, the disincentive amount is zero (0). Otherwise,

- 1 multiply the number determined under STEP ONE by the
 2 average length of stay for a Class D felony offender in the
 3 department, as determined under section 2 of this chapter.
 4 **STEP THREE: Multiply the product determined under STEP**
 5 **TWO by the average daily marginal cost of incarcerating an**
 6 **offender, as determined under IC 11-10-13-1(b).**
 7 **STEP FOUR: Multiply the product determined under STEP**
 8 **THREE by fifty percent (50%).**
- 9 **Sec. 5. The department shall withhold the amount of the**
 10 **disincentive calculated for a county for a particular year under**
 11 **section 4 of this chapter from the amount of money the department**
 12 **is otherwise required to deposit in a county's misdemeanor fund**
 13 **under IC 11-12-6-13 before September 1 of that year.**
- 14 **Sec. 6. (a) Before September 1, 2014, the department, using the**
 15 **information collected under IC 33-24-6-3(a)(2)(F) in the report**
 16 **published by the division of state court administration under**
 17 **IC 33-24-6-3(a)(3) for calendar year 2013 and the number of Class**
 18 **D felony offender commitments made to the department in**
 19 **calendar year 2013, shall determine a baseline average percentage**
 20 **for purposes of this section. The baseline average percentage is the**
 21 **result determined in the last STEP of the following formula:**
- 22 **STEP ONE: For each county, determine:**
 23 **(A) the number of offenders convicted of Class D felonies**
 24 **in the county in calendar year 2011; and**
 25 **(B) of that number, the percentage of Class D felony**
 26 **offenders who were committed to the department.**
- 27 **STEP TWO: Determine the quotient of:**
 28 **(A) the sum of the amounts determined under STEP ONE;**
 29 **divided by**
 30 **(B) the number of counties in Indiana.**
- 31 **(b) Each year after 2013, the department shall provide a local**
 32 **corrections incentive to each county that does not commit a larger**
 33 **percentage of its Class D felony offenders to the department than**
 34 **the baseline average percentage determined under subsection (a),**
 35 **as determined under subsection (c).**
- 36 **(c) Before March 1 of each year, the department shall determine**
 37 **a county's eligibility for the incentive described in subsection (b)**
 38 **using the following formula:**

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

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

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

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

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

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

36 **(b) If a county has a local community corrections advisory**
37 **board, the local community corrections advisory board shall make**
38 **a recommendation to the county's fiscal body regarding how local**

1 incentive funds should be distributed.

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

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

9 **(1) whose probation has been revoked after the offender was**
 10 **previously incarcerated for the felony by the department in a**
 11 **department facility;**

12 **(2) whose participation in a community corrections program**
 13 **has been terminated as a result of a violation of program**
 14 **requirements;**

15 **(3) whose participation in a problem solving court program**
 16 **has been terminated as a result of a violation of program**
 17 **requirements; or**

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

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

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

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

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

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

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

1 or antigen to HIV may not be performed on a woman under section 5
 2 or 6 of this chapter if the woman refuses under section 7 of this chapter
 3 to consent to the test.

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

6 (1) If ordered by a physician who has obtained a health care
 7 consent under IC 16-36-1 or an implied consent under emergency
 8 circumstances and the test is medically necessary to diagnose or
 9 treat the patient's condition.

10 (2) Under a court order based on clear and convincing evidence
 11 of a serious and present health threat to others posed by an
 12 individual. A hearing held under this subsection shall be held in
 13 camera at the request of the individual.

14 (3) If the test is done on blood collected or tested anonymously as
 15 part of an epidemiologic survey under IC 16-41-2-3 or
 16 IC 16-41-17-10(a)(5).

17 (4) The test is ordered under section 4 of this chapter.

18 (5) The test is required or authorized under IC 11-10-3-2.5.

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

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

26 (1) Order supervision of the child by the probation department.

27 (2) Order the child to receive outpatient treatment:

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

30 (B) from an individual practitioner.

31 (3) Remove the child from the child's home and place the child in
 32 another home or shelter care facility. Placement under this
 33 subdivision includes authorization to control and discipline the
 34 child.

35 (4) Award wardship to a:

36 (A) person, other than the department; or

37 (B) shelter care facility.

38 (5) Partially or completely emancipate the child under section 27

- 1 of this chapter.
- 2 (6) Order:
- 3 (A) the child; or
- 4 (B) the child's parent, guardian, or custodian;
- 5 to receive family services.
- 6 (7) Order a person who is a party to refrain from direct or indirect
- 7 contact with the child.
- 8 (b) If the child is removed from the child's home and placed in a
- 9 foster family home or another facility, the juvenile court shall:
- 10 (A) approve a permanency plan for the child;
- 11 (B) find whether or not reasonable efforts were made to prevent
- 12 or eliminate the need for the removal;
- 13 (C) designate responsibility for the placement and care of the
- 14 child with the probation department; and
- 15 (D) find whether it:
- 16 (i) serves the best interests of the child to be removed; and
- 17 (ii) would be contrary to the health and welfare of the child for
- 18 the child to remain in the home.
- 19 (c) If a dispositional decree under this section:
- 20 (1) orders or approves removal of a child from the child's home or
- 21 awards wardship of the child to a:
- 22 (A) person other than the department; or
- 23 (B) shelter care facility; and
- 24 (2) is the first court order in the delinquent child proceeding that
- 25 authorizes or approves removal of the child from the child's
- 26 parent, guardian, or custodian;
- 27 the court shall include in the decree the appropriate findings and
- 28 conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).
- 29 **(d) If the juvenile court orders supervision of the child by the**
- 30 **probation department under subsection (a)(1), the child or the**
- 31 **child's parent, guardian, or custodian is responsible for any costs**
- 32 **resulting from the participation in a rehabilitative service or**
- 33 **educational class provided by the probation department. Any costs**
- 34 **collected for services provided by the probation department shall**
- 35 **be deposited in the county supplemental juvenile probation services**
- 36 **fund.**
- 37 SECTION 11. IC 31-37-19-5, AS AMENDED BY P.L.146-2008,
- 38 SECTION 650, IS AMENDED TO READ AS FOLLOWS

1 [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) This section applies if a child
2 is a delinquent child under IC 31-37-1.

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

6 (1) Order supervision of the child by the probation department as
7 a condition of probation under this subdivision. The juvenile court
8 shall after a determination under IC 11-8-8-5 require a child who
9 is adjudicated a delinquent child for an act that would be an
10 offense described in IC 11-8-8-5 if committed by an adult to
11 register with the local law enforcement authority under IC 11-8-8.

12 (2) Order the child to receive outpatient treatment:

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

15 (B) from an individual practitioner.

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

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

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

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

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

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

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

37 SECTION 12. IC 33-24-6-3, AS AMENDED BY P.L.1-2010,
38 SECTION 132, IS AMENDED TO READ AS FOLLOWS

- 1 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The division of state
- 2 court administration shall do the following:
- 3 (1) Examine the administrative and business methods and systems
- 4 employed in the offices of the clerks of court and other offices
- 5 related to and serving the courts and make recommendations for
- 6 necessary improvement.
- 7 (2) Collect and compile statistical data and other information on
- 8 the judicial work of the courts in Indiana. All justices of the
- 9 supreme court, judges of the court of appeals, judges of all trial
- 10 courts, and any city or town courts, whether having general or
- 11 special jurisdiction, court clerks, court reporters, and other
- 12 officers and employees of the courts shall, upon notice by the
- 13 executive director and in compliance with procedures prescribed
- 14 by the executive director, furnish the executive director the
- 15 information as is requested concerning the nature and volume of
- 16 judicial business. The information must include the following:
- 17 (A) The volume, condition, and type of business conducted by
- 18 the courts.
- 19 (B) The methods of procedure in the courts.
- 20 (C) The work accomplished by the courts.
- 21 (D) The receipt and expenditure of public money by and for
- 22 the operation of the courts.
- 23 (E) The methods of disposition or termination of cases.
- 24 **(F) Each year after 2013, the number of offenders**
- 25 **convicted of Class D felonies in each county in the previous**
- 26 **calendar year.**
- 27 (3) Prepare and publish reports, not less than one (1) or more than
- 28 two (2) times per year, on the nature and volume of judicial work
- 29 performed by the courts as determined by the information
- 30 required in subdivision ~~(2)~~ **(2)(A) through (2)(E). Information**
- 31 **collected under subdivision (2)(F) shall be submitted to the**
- 32 **department of correction on or before May 1 of each year.**
- 33 (4) Serve the judicial nominating commission and the judicial
- 34 qualifications commission in the performance by the commissions
- 35 of their statutory and constitutional functions.
- 36 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 37 (6) Administer the judicial technology and automation project
- 38 fund established by section 12 of this chapter.

- 1 (7) Develop a standard protocol for the exchange of information,
- 2 by not later than December 31, 2009:
- 3 (A) between the protective order registry, established by
- 4 IC 5-2-9-5.5, and county court case management systems;
- 5 (B) at the option of the county prosecuting attorney, for:
- 6 (i) a prosecuting attorney's case management system;
- 7 (ii) a county court case management system; and
- 8 (iii) a county court case management system developed and
- 9 operated by the division of state court administration;
- 10 to interface with the electronic traffic tickets, as defined by
- 11 IC 9-30-3-2.5; and
- 12 (C) between county court case management systems and the
- 13 case management system developed and operated by the
- 14 division of state court administration.
- 15 (8) Establish and administer an electronic system for receiving
- 16 information that relates to certain individuals who may be
- 17 prohibited from possessing a firearm and transmitting this
- 18 information to the Federal Bureau of Investigation for inclusion
- 19 in the NICS.
- 20 (b) All forms to be used in gathering data must be approved by the
- 21 supreme court and shall be distributed to all judges and clerks before
- 22 the start of each period for which reports are required.
- 23 (c) The division may adopt rules to implement this section."
- 24 Delete pages 13 through 20.
- 25 Page 21, delete lines 1 through 37.
- 26 Page 22, line 2, delete "introduced" and insert "**admitted**".
- 27 Page 22, line 2, delete "trial; or" and insert "**trial that is relevant to**
- 28 **the credit restricted status;**
- 29 **(2) evidence introduced at the sentencing hearing; or"**.
- 30 Page 22, line 3, delete "(2)" and insert "**(3)**".
- 31 Page 22, delete lines 7 through 12.
- 32 Page 22, line 17, delete "state in the" and insert "**complete an**
- 33 **abstract of judgment in an electronic format approved by the**
- 34 **department of correction and the division of state court**
- 35 **administration. The abstract of judgment must include, but not be**
- 36 **limited to:"**.
- 37 Page 22, delete line 18.
- 38 Page 22, line 19, delete "and".

- 1 Page 22, line 22, delete "corrections." and insert "**corrections; and**
- 2 **(3) whether the person is a credit restricted felon."**
- 3 Page 22, line 23, delete "a court imposes on".
- 4 Page 22, line 23, delete "felony a" and insert "**felony"**.
- 5 Page 22, line 24, delete "sentence that involves a commitment" and
- 6 insert "**is committed"**.
- 7 Page 22, line 25, delete "correction," and insert "**correction by a**
- 8 **court as a result of a violation of the terms of probation or other**
- 9 **community placement,"**.
- 10 Page 22, line 25, delete "sentencing order the" and insert "**abstract**
- 11 **of judgment the specific"**.
- 12 Page 22, between lines 27 and 28, begin a new paragraph and insert:
- 13 "SECTION 15. IC 35-38-2-2.3, AS AMENDED BY P.L.111-2009,
- 14 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 JULY 1, 2012]: Sec. 2.3. (a) As a condition of probation, the court may
- 16 require a person to do a combination of the following:
- 17 (1) Work faithfully at suitable employment or faithfully pursue a
- 18 course of study or career and technical education that will equip
- 19 the person for suitable employment.
- 20 (2) Undergo available medical or psychiatric treatment and
- 21 remain in a specified institution if required for that purpose.
- 22 (3) Attend or reside in a facility established for the instruction,
- 23 recreation, or residence of persons on probation.
- 24 **(4) Participate in a treatment program, educational class, or**
- 25 **rehabilitative service provided by a probation department or**
- 26 **by referral to an agency.**
- 27 ~~(4)~~ **(5)** Support the person's dependents and meet other family
- 28 responsibilities.
- 29 ~~(5)~~ **(6)** Make restitution or reparation to the victim of the crime
- 30 for damage or injury that was sustained by the victim. When
- 31 restitution or reparation is a condition of probation, the court shall
- 32 fix the amount, which may not exceed an amount the person can
- 33 or will be able to pay, and shall fix the manner of performance.
- 34 ~~(6)~~ **(7)** Execute a repayment agreement with the appropriate
- 35 governmental entity to repay the full amount of public relief or
- 36 assistance wrongfully received, and make repayments according
- 37 to a repayment schedule set out in the agreement.
- 38 ~~(7)~~ **(8)** Pay a fine authorized by IC 35-50.

- 1 ~~(8)~~ **(9)** Refrain from possessing a firearm or other deadly weapon
2 unless granted written permission by the court or the person's
3 probation officer.
- 4 ~~(9)~~ **(10)** Report to a probation officer at reasonable times as
5 directed by the court or the probation officer.
- 6 ~~(10)~~ **(11)** Permit the person's probation officer to visit the person
7 at reasonable times at the person's home or elsewhere.
- 8 ~~(11)~~ **(12)** Remain within the jurisdiction of the court, unless
9 granted permission to leave by the court or by the person's
10 probation officer.
- 11 ~~(12)~~ **(13)** Answer all reasonable inquiries by the court or the
12 person's probation officer and promptly notify the court or
13 probation officer of any change in address or employment.
- 14 ~~(13)~~ **(14)** Perform uncompensated work that benefits the
15 community.
- 16 ~~(14)~~ **(15)** Satisfy other conditions reasonably related to the
17 person's rehabilitation.
- 18 ~~(15)~~ **(16)** Undergo home detention under IC 35-38-2.5.
- 19 ~~(16)~~ **(17)** Undergo a laboratory test or series of tests approved by
20 the state department of health to detect and confirm the presence
21 of the human immunodeficiency virus (HIV) antigen or antibodies
22 to the human immunodeficiency virus (HIV), if:
- 23 (A) the person had been convicted of an offense relating to a
24 criminal sexual act and the offense created an
25 epidemiologically demonstrated risk of transmission of the
26 human immunodeficiency virus (HIV); or
- 27 (B) the person had been convicted of an offense relating to a
28 controlled substance and the offense involved:
- 29 (i) the delivery by any person to another person; or
30 (ii) the use by any person on another person;
- 31 of a contaminated sharp (as defined in IC 16-41-16-2) or other
32 paraphernalia that creates an epidemiologically demonstrated
33 risk of transmission of HIV by involving percutaneous contact.
- 34 ~~(17)~~ **(18)** Refrain from any direct or indirect contact with an
35 individual and, if convicted of an offense under IC 35-46-3, any
36 animal belonging to the individual.
- 37 ~~(18)~~ **(19)** Execute a repayment agreement with the appropriate
38 governmental entity or with a person for reasonable costs incurred

1 because of the taking, detention, or return of a missing child (as
2 defined in IC 10-13-5-4).

3 ~~(19)~~ **(20)** Periodically undergo a laboratory chemical test (as
4 defined in IC 14-15-8-1) or series of chemical tests as specified
5 by the court to detect and confirm the presence of a controlled
6 substance (as defined in IC 35-48-1-9). The person on probation
7 is responsible for any charges resulting from a test and shall have
8 the results of any test under this subdivision reported to the
9 person's probation officer by the laboratory.

10 ~~(20)~~ **(21)** If the person was confined in a penal facility, execute a
11 reimbursement plan as directed by the court and make repayments
12 under the plan to the authority that operates the penal facility for
13 all or part of the costs of the person's confinement in the penal
14 facility. The court shall fix an amount that:

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

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

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

23 ~~(21)~~ **(22)** Refrain from owning, harboring, or training an animal.

24 ~~(22)~~ **(23)** Participate in a reentry court program.

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

27 (1) the conditions of probation; and

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

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

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

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

38 (d) Intermittent service may be required only for a term of not more

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

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

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

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

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

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

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

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

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

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

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

1 **Chapter 21. County Offender Fund**
2 **Sec. 1. Each county shall establish, by resolution, a county**
3 **offender fund to redistribute incentives received under IC 11-10-16**
4 **to:**
5 **(1) programs that defray the expense of housing an offender**
6 **in jail;**
7 **(2) probation programs;**
8 **(3) work release programs;**
9 **(4) community corrections programs;**
10 **(5) problem solving courts; and**
11 **(6) substance abuse treatment programs.**
12 **Sec. 2. Money in a county offender fund established under**
13 **section 1 of this chapter may be spent only under an appropriation**
14 **from the county fiscal body.**
15 **SECTION 19. An emergency is declared for this act."**
16 Renumber all SECTIONS consecutively.
 (Reference is to HB 1011 as introduced.)

and when so amended that said bill do pass.

Representative Steuerwald