

SENATE BILL No. 404

DIGEST OF INTRODUCED BILL

Citations Affected: Numerous citations throughout the Indiana Code.

Synopsis: Elimination of grand juries. Abolishes the grand jury. Makes conforming amendments and repeals superseded provisions. Makes technical corrections.

Effective: July 1, 2012.

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January 9, 2012, read first time and referred to Committee on Judiciary.

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Second Regular Session 117th General Assembly (2012)

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

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

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

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SENATE BILL No. 404



A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

1 SECTION 1. IC 3-6-6-12 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) A county election board
3 shall remove a member of a precinct election board and declare the
4 office vacant if:

- 5 (1) at any time before or during an election the county election
- 6 board is notified by the affidavit of two (2) or more voters of the
- 7 precinct that the member is not qualified; and
- 8 (2) the board determines that the statements made in the affidavit
- 9 concerning the disqualification of the precinct election board
- 10 member are true.

11 (b) If the disqualified member has taken the oath of office required
12 by this chapter, the circuit court clerk shall attach the oath to the poll
13 list and shall ~~place~~ **transmit** the affidavit and oath ~~before the next~~
14 **grand jury of the county: to the prosecuting attorney.**

15 SECTION 2. IC 3-6-8-6 IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2012]: Sec. 6. A watcher appointed under this
17 chapter shall report any violation of the election laws that comes to the



1 watcher's attention to the ~~county grand jury~~ or prosecuting attorney.

2 SECTION 3. IC 3-10-1-31.1, AS AMENDED BY P.L.141-2011,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 31.1. (a) This section applies only to election
5 materials for elections held after December 31, 2003.

6 (b) The inspector of each precinct shall deliver the bags required by
7 section 30(a) and 30(c) of this chapter in good condition, together with
8 poll lists, tally sheets, and other forms, to the circuit court clerk when
9 making returns.

10 (c) Except for unused ballots disposed of under IC 3-11-3-31 or
11 affidavits received by the county election board under IC 3-14-5-2 for
12 delivery to the ~~foreman of a grand jury~~, **prosecuting attorney**, the
13 circuit court clerk shall seal the ballots (including provisional ballots)
14 and other material (including election material related to provisional
15 ballots) during the time allowed to file a verified petition or
16 cross-petition for a recount of votes or to contest the election. Except
17 as provided in subsection (d) and notwithstanding any other provision
18 of state law, after the recount or contest filing period, the election
19 material, including election material related to provisional ballots
20 (except for ballots and provisional ballots, which remain confidential)
21 shall be made available for copying and inspection under IC 5-14-3.
22 The circuit court clerk shall carefully preserve the sealed ballots and
23 other material for twenty-two (22) months, as required by 42 U.S.C.
24 1974, after which the sealed ballots and other material are subject to
25 IC 5-15-6 unless an order issued under:

26 (1) IC 3-12-6-19 or IC 3-12-11-16; or

27 (2) 42 U.S.C. 1973;

28 requires the continued preservation of the ballots or other material.

29 (d) If a petition for a recount or contest is filed, the material for that
30 election remains confidential until completion of the recount or contest.

31 (e) Upon delivery of the poll lists, the county voter registration
32 office may unseal the envelopes containing the poll lists. For the
33 purposes of:

34 (1) a cancellation of registration conducted under IC 3-7-43
35 through IC 3-7-46;

36 (2) a transfer of registration conducted under IC 3-7-39,
37 IC 3-7-40, or IC 3-7-42;

38 (3) a change of name made under IC 3-7-41;

39 (4) adding the registration of a voter under IC 3-7-48-8; or

40 (5) recording that a voter subject to IC 3-7-33-4.5 submitted the
41 documentation required under 42 U.S.C. 15483 and IC 3-11-8 or
42 IC 3-11-10;

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1 the county voter registration office may inspect the poll lists and update
 2 the registration record of the county. The county voter registration
 3 office shall use the poll lists to update the registration record to include
 4 the voter's voter identification number if the voter's voter identification
 5 number is not already included in the registration record. Upon
 6 completion of the inspection, the poll list shall be preserved with the
 7 ballots and other materials in the manner prescribed by subsection (c)
 8 for the period prescribed by subsections (c) and (d).

9 (f) This subsection does not apply to ballots, including provisional
 10 ballots. Notwithstanding subsection (c), if a county voter registration
 11 office determines that the inspection and copying of precinct election
 12 material would reveal the political parties, candidates, and public
 13 questions for which an individual cast an absentee ballot, the county
 14 voter registration office shall keep confidential only that part of the
 15 election material necessary to protect the secrecy of the voter's ballot.
 16 In addition, the county voter registration office shall keep confidential
 17 information contained in material related to provisional ballots that
 18 identifies an individual, except for the individual's name, address, and
 19 birth date.

20 (g) After the expiration of the period described in subsection (c) or
 21 (d), the ballots may be destroyed in the manner provided by
 22 IC 3-11-3-31 or transferred to a state educational institution as
 23 provided by IC 3-12-2-12.

24 SECTION 4. IC 3-14-3-4, AS AMENDED BY P.L.103-2005,
 25 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2012]: Sec. 4. (a) A person who:

- 27 (1) knowingly obstructs or interferes with an election officer in
 28 the discharge of the officer's duty; or
 29 (2) knowingly obstructs or interferes with a voter within the
 30 chute;

31 commits a Class D felony.

32 (b) A person who knowingly injures an election officer or a voter:

- 33 (1) in the exercise of the officer's or voter's rights or duties; or
 34 (2) because the officer or voter has exercised the officer's or
 35 voter's rights or duties;

36 commits a Class D felony.

37 (c) A person called as a witness to testify against another for a
 38 violation of this section is a competent witness to prove the offense
 39 even though the person may have been a party to the violation. The
 40 person shall be compelled to testify as other witnesses. However, the
 41 person's evidence may not be used against the person in a prosecution
 42 growing out of matters about which the person testifies, and the person

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1 is not liable to ~~indictment or~~ information for the offense.

2 SECTION 5. IC 3-14-5-1, AS AMENDED BY P.L.230-2005,
3 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 1. (a) This section applies during an election
5 whenever a voter makes an affidavit before the inspector in a precinct
6 that a person who has voted is an illegal voter in the precinct. This
7 section does not apply to an affidavit executed by an individual who:

- 8 (1) is subject to the requirements set forth in IC 3-7-33-4.5;
9 (2) is challenged solely as a result of the individual's inability or
10 refusal to comply with IC 3-7-33-4.5; and
11 (3) subsequently complies with IC 3-7-33-4.5 before the close of
12 the polls on election day.

13 (b) Immediately after the close of the polls the inspector shall
14 deliver the affidavit to the county election board for delivery by the
15 prosecuting attorney for the county to ~~the grand jury~~ under section 2 of
16 this chapter. The prosecuting attorney for the county shall:

- 17 (1) proceed as if the affidavit had been made before the
18 prosecuting attorney; and
19 (2) ~~ensure that the grand jury notifies~~ **notify** the NVRA official
20 under section 2 of this chapter if a violation of NVRA appears to
21 have occurred.

22 SECTION 6. IC 3-14-5-2, AS AMENDED BY P.L.230-2005,
23 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2012]: Sec. 2. (a) Each precinct election board shall, at the
25 close of the polls, place all affidavits prescribed by this title for use on
26 election day to determine the eligibility of a precinct election officer (or
27 a person who wishes to cast a ballot) in a strong paper bag or envelope
28 and securely seal it. Each member shall endorse that member's name
29 on the back of the bag or envelope.

30 (b) The inspector and judge of the opposite political party shall
31 deliver the sealed bag or envelope to the county election board. The
32 county election board shall do the following:

- 33 (1) Remove the affidavits from the bag or envelope.
34 (2) Mail a copy of each affidavit to the secretary of state.
35 (3) Replace the affidavits within the bag or envelope.
36 (4) Reseal the bag or envelope with the endorsement of the name
37 of each county election board member on the back of the bag or
38 envelope.
39 (5) Carefully preserve the resealed bag or envelope and deliver it,
40 with the county election board's seal unbroken, to the ~~foreman of~~
41 ~~the grand jury when next in session:~~ **prosecuting attorney.**

42 (c) The ~~grand jury~~ **prosecuting attorney** shall inquire into the truth

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1 or falsity of the affidavits. ~~and the court having jurisdiction over the~~
2 ~~grand jury shall specially charge the jury as to its duties under this~~
3 ~~section.~~

4 (d) The ~~grand jury prosecuting attorney~~ shall file a report of the
5 result of ~~its the~~ inquiry with:

- 6 (1) the court; and
- 7 (2) the NVRA official if a violation of NVRA appears to have
- 8 occurred.

9 SECTION 7. IC 3-14-5-3, AS AMENDED BY P.L.81-2005,
10 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2012]: Sec. 3. (a) This section does not apply to a violation of
12 NVRA or IC 3-7.

13 (b) The commission and each county election board shall report a
14 violation of this title as a felony or misdemeanor to the appropriate
15 prosecuting attorney and the alleged violator.

16 ~~(c) The commission and boards may have the report transmitted and~~
17 ~~presented to the grand jury of the county in which the violation was~~
18 ~~committed at its first session after making the report and at subsequent~~
19 ~~sessions that may be required. The commission and boards shall~~
20 ~~furnish the grand jury any evidence at their command necessary in the~~
21 ~~investigation and prosecution of the violation.~~

22 SECTION 8. IC 3-14-5-5 IS AMENDED TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2012]: Sec. 5. When an election offense is
24 committed, an ~~indictment~~ or information for the offense is sufficient if
25 it alleges that the election was authorized by law without stating the
26 names of the officers holding the election, the candidates voted for, or
27 the offices filled at the election.

28 SECTION 9. IC 4-2-7-7, AS ADDED BY P.L.222-2005, SECTION
29 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
30 2012]: Sec. 7. (a) If the inspector general discovers evidence of
31 criminal activity, the inspector general shall certify to the appropriate
32 prosecuting attorney the following information:

- 33 (1) The identity of any person who may be involved in the
- 34 criminal activity.
- 35 (2) The criminal statute that the inspector general believes has
- 36 been violated.

37 In addition, the inspector general shall provide the prosecuting attorney
38 with any relevant documents, transcripts, or written statements. If the
39 prosecuting attorney decides to prosecute the crime described in the
40 information certified to the prosecuting attorney, or any other related
41 crimes, the inspector general shall cooperate with the prosecuting
42 attorney in the investigation and prosecution of the case. Upon request

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1 of the prosecuting attorney, the inspector general may participate on
2 behalf of the state in any resulting criminal trial.

3 (b) If:

4 (1) the prosecuting attorney to whom the inspector general issues
5 a certification under subsection (a):

6 (A) is disqualified from investigating or bringing a criminal
7 prosecution in the matter addressed in the certification;

8 (B) does not file an information ~~or seek an indictment~~ not later
9 than one hundred eighty (180) days after the date on which the
10 inspector general certified the information to the prosecuting
11 attorney; or

12 (C) refers the case back to the inspector general; and

13 (2) the inspector general finds that there may be probable cause
14 to believe that a person identified in a certification under
15 subsection (a)(1) has violated a criminal statute identified in a
16 certification under subsection (a)(2);

17 the inspector general may request that the governor recommend the
18 inspector general be appointed as a special prosecuting attorney under
19 subsection (h) so that the inspector general may prosecute the matter
20 addressed in the certification.

21 (c) The governor may recommend the inspector general be
22 appointed as a special prosecuting attorney if:

23 (1) one (1) of the conditions set forth in subsection (b)(1) relating
24 to the prosecuting attorney is met; and

25 (2) the governor finds that the appointment of the inspector
26 general as a special prosecuting attorney is in the best interests of
27 justice.

28 (d) If the governor has recommended the appointment of the
29 inspector general as a special prosecuting attorney, the inspector
30 general shall file a notice with the chief judge of the court of appeals,
31 stating:

32 (1) that the governor has recommended that the inspector general
33 be appointed as a special prosecutor;

34 (2) the name of the county in which the crime that the inspector
35 general intends to prosecute is alleged to have been committed;
36 and

37 (3) that the inspector general requests the chief judge to assign a
38 court of appeals judge to determine whether the inspector general
39 should be appointed as a special prosecuting attorney.

40 Upon receipt of the notice, the chief judge of the court of appeals shall
41 randomly select a judge of the court of appeals to determine whether
42 the inspector general should be appointed as a special prosecuting

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1 attorney. The chief judge shall exclude from the random selection a
 2 judge who resided in the county in which the crime is alleged to have
 3 been committed at the time the judge was appointed to the court of
 4 appeals.

5 (e) The inspector general shall file a verified petition for
 6 appointment as a special prosecuting attorney with the court of appeals
 7 judge assigned under subsection (d). In the verified petition, the
 8 inspector general shall set forth why the inspector general should be
 9 appointed as a special prosecutor. The inspector general may support
 10 the verified petition by including relevant documents, transcripts, or
 11 written statements in support of the inspector general's position. The
 12 inspector general shall serve a copy of the verified petition, along with
 13 any supporting evidence, on the prosecuting attorney to whom the case
 14 was originally certified under subsection (a).

15 (f) The prosecuting attorney shall file a verified petition in support
 16 of or opposition to the inspector general's verified petition for
 17 appointment as a special prosecuting attorney not later than fifteen (15)
 18 days after receipt of the inspector general's verified petition for
 19 appointment as a special prosecuting attorney.

20 (g) Upon a showing of particularized need, the court of appeals
 21 judge may order the verified petitions filed by the inspector general and
 22 the prosecuting attorney to be confidential.

23 (h) After considering the verified petitions, the court of appeals
 24 judge may appoint the inspector general or a prosecuting attorney,
 25 other than the prosecuting attorney to whom the case was certified
 26 under this section, as a special prosecuting attorney if the judge finds
 27 that:

- 28 (1) one (1) of the conditions set forth in subsection (b)(1) is met;
- 29 and
- 30 (2) appointment of a special prosecuting attorney is in the best
- 31 interests of justice.

32 In making ~~its~~ **the** determination under this subsection, the court of
 33 appeals judge shall consider only the arguments and evidence
 34 contained in the verified petitions.

35 (i) ~~Except as provided in subsection (k);~~ A special prosecuting
 36 attorney appointed under this section has the same powers as the
 37 prosecuting attorney of the county. However, the court of appeals judge
 38 shall:

- 39 (1) limit the scope of the special prosecuting attorney's duties as
- 40 a special prosecuting attorney to include only the investigation or
- 41 prosecution of a particular case, ~~or particular grand jury~~
- 42 ~~investigation;~~ including any matter that reasonably results from

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1 the investigation ~~or~~ prosecution; ~~or grand jury investigation~~; and
 2 (2) establish for a time certain the length of the special
 3 prosecuting attorney's term.

4 If the special prosecuting attorney's investigation or prosecution
 5 acquires a broader scope or requires additional time to complete, the
 6 court of appeals judge may at any time increase the scope of the special
 7 prosecuting attorney's duties or establish a longer term for the special
 8 prosecuting attorney.

9 (j) An inspector general or prosecuting attorney appointed to serve
 10 as a special prosecuting attorney may appoint one (1) or more deputies
 11 who are licensed to practice law in Indiana to serve as a special deputy
 12 prosecuting attorney. A special deputy prosecuting attorney is subject
 13 to the same statutory restrictions and other restrictions imposed on the
 14 special prosecuting attorney by the court of appeals, but otherwise has
 15 the same powers as a deputy prosecuting attorney.

16 ~~(k) An inspector general or prosecuting attorney appointed to serve~~
 17 ~~as a special prosecuting attorney under this section may bring a~~
 18 ~~criminal charge only after obtaining an indictment from a grand jury.~~
 19 ~~An inspector general or prosecuting attorney appointed under this~~
 20 ~~section to serve as a special prosecuting attorney may not bring a~~
 21 ~~criminal charge by filing an information.~~

22 ~~(†) (k)~~ The inspector general or a deputy inspector general who is
 23 licensed to practice law in Indiana may serve as a special deputy
 24 prosecuting attorney under IC 33-39-2-6.

25 ~~(m) (l)~~ If the court of appeals appoints a prosecuting attorney to
 26 serve as a special prosecuting attorney under this section, the inspector
 27 general shall reimburse the prosecuting attorney for the reasonable
 28 expenses of investigating and prosecuting the case.

29 SECTION 10. IC 4-6-3-5 IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2012]: Sec. 5. An investigative demand may
 31 not:

32 (1) contain a requirement that would be unreasonable if contained
 33 in a subpoena or subpoena duces tecum issued by a court; ~~in a~~
 34 ~~grand jury investigation~~; or

35 (2) require the giving of oral testimony, the production of written
 36 answers to interrogatories, or the production of documentary
 37 material that would be privileged from disclosure if demanded by
 38 a subpoena duces tecum issued by a court. ~~in aid of a grand jury~~
 39 ~~investigation.~~

40 SECTION 11. IC 4-6-3-11 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. When original
 42 documentary material made available pursuant to an investigative

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1 demand is no longer required for use in a pending proceeding, or,
 2 absent any pending proceeding, is no longer required in connection
 3 with the investigation for which it was demanded, or at the end of the
 4 twenty-four (24) months following the date when the material was
 5 made available, whichever is sooner, it shall be returned, unless a
 6 request to extend the period beyond twenty-four (24) months has been
 7 filed in a court in which a request for an order compelling compliance
 8 pursuant to section 6 of this chapter be filed. This section does not
 9 require the return of documentary material that has passed into the
 10 control of a court or **grand jury: prosecuting attorney.**

11 SECTION 12. IC 4-15-11-3 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) An officer or
 13 employee of the state who is charged with a crime or infraction relating
 14 to that individual's acts as an officer or employee may apply to the
 15 budget agency for reimbursement of reasonable expenses incurred in
 16 the officer's or employee's defense against those charges if all charges
 17 have been dismissed or if the officer or employee has been found not
 18 guilty of the charges.

19 (b) An officer or employee of the state who is the target of a grand
 20 jury investigation relating to that individual's acts in carrying out the
 21 individual's responsibilities as an officer or employee of the state may
 22 apply to the the budget agency for reimbursement of reasonable
 23 expenses incurred by the officer or employee resulting from the grand
 24 jury investigation if the grand jury fails to indict the officer or
 25 employee:

26 (c) The budget agency may approve reimbursement of reasonable
 27 expenses under this section if:

- 28 (1) the officer or employee who was charged with a crime or
 29 infraction or who was the target of a grand jury investigation
 30 retained counsel; and
 31 (2) the expenses for which reimbursement is sought are
 32 reasonable.

33 (d) (b) Reimbursement payments approved under this section shall
 34 be paid from the state general fund.

35 SECTION 13. IC 4-33-3-10 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. A person may not
 37 be appointed to the commission if:

- 38 (1) the person is not of good moral character; or
 39 (2) the person:
 40 (A) has been convicted of; or
 41 (B) is under indictment for **or charged by information with;**
 42 a felony under Indiana law, the laws of any other state, or laws of

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the United States.

SECTION 14. IC 4-33-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. An applicant for a license or an operating agent contract under this article must provide the following information to the commission:

(1) The name, business address, and business telephone number of the applicant.

(2) An identification of the applicant.

(3) The following information for an applicant that is not an individual:

(A) The state of incorporation or registration.

(B) The names of all corporate officers.

(C) The identity of the following:

(i) Any person in which the applicant has an equity interest of at least one percent (1%) of all shares. The identification must include the state of incorporation or registration if applicable. However, an applicant that has a pending registration statement filed with the Securities and Exchange Commission is not required to provide information under this item.

(ii) The shareholders or participants of the applicant. An applicant that has a pending registration statement filed with the Securities and Exchange Commission is required to provide only the names of persons holding an interest of more than one percent (1%) of all shares.

(4) An identification of any business, including the state of incorporation or registration if applicable, in which an applicant or the spouse or children of an applicant has an equity interest of more than one percent (1%) of all shares.

(5) If the applicant has been **charged by information, been** indicted, been convicted, pleaded guilty or nolo contendere, or forfeited bail concerning a criminal offense other than a traffic violation under the laws of any jurisdiction. The applicant must include the following information under this subdivision:

(A) The name and location of the following:

(i) The court.

(ii) The arresting agency.

(iii) The prosecuting agency.

(B) The case number.

(C) The date and type of offense.

(D) The disposition of the case.

(E) The location and length of incarceration.

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- 1 (6) If the applicant has had a license or certificate issued by a
 2 licensing authority in Indiana or any other jurisdiction denied,
 3 restricted, suspended, revoked, or not renewed. An applicant must
 4 provide the following information under this subdivision:
 5 (A) A statement describing the facts and circumstances
 6 concerning the denial, restriction, suspension, revocation, or
 7 nonrenewal.
 8 (B) The date each action described in clause (A) was taken.
 9 (C) The reason each action described in clause (A) was taken.
 10 (7) If the applicant has:
 11 (A) filed or had filed against the applicant a proceeding in
 12 bankruptcy; or
 13 (B) been involved in a formal process to adjust, defer,
 14 suspend, or work out the payment of a debt;
 15 including the date of filing, the name and location of the court,
 16 and the case and number of the disposition.
 17 (8) If the applicant has filed or been served with a complaint or
 18 notice filed with a public body concerning:
 19 (A) a delinquency in the payment of; or
 20 (B) a dispute over a filing concerning the payment of;
 21 a tax required under federal, state, or local law, including the
 22 amount, type of tax, the taxing agency, and times involved.
 23 (9) A statement listing the names and titles of public officials or
 24 officers of units of government and relatives of the public officials
 25 or officers who directly or indirectly:
 26 (A) have a financial interest in;
 27 (B) have a beneficial interest in;
 28 (C) are the creditors of;
 29 (D) hold a debt instrument issued by; or
 30 (E) have an interest in a contractual or service relationship
 31 with;
 32 an applicant.
 33 (10) If an applicant for an operating agent contract or an owner's
 34 or a supplier's license has directly or indirectly made a political
 35 contribution, loan, donation, or other payment to a candidate or an
 36 office holder in Indiana not more than five (5) years before the
 37 date the applicant filed the application. An applicant must provide
 38 information concerning the amount and method of a payment
 39 described in this subdivision.
 40 (11) The name and business telephone number of the attorney
 41 who will represent the applicant in matters before the
 42 commission.

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- 1 (12) A description of a proposed or an approved riverboat gaming
- 2 operation, including the following information:
- 3 (A) The type of boat.
- 4 (B) The home dock location.
- 5 (C) The expected economic benefit to local communities.
- 6 (D) The anticipated or actual number of employees.
- 7 (E) Any statements from the applicant concerning compliance
- 8 with federal and state affirmative action guidelines.
- 9 (F) Anticipated or actual admissions.
- 10 (G) Anticipated or actual adjusted gross gaming receipts.

11 (13) A description of the product or service to be supplied by the

12 applicant if the applicant has applied for a supplier's license.

13 (14) The following information from each licensee or operating

14 agent involved in the ownership or management of gambling

15 operations:

- 16 (A) An annual balance sheet.
- 17 (B) An annual income statement.
- 18 (C) A list of the stockholders or other persons having at least
- 19 a one percent (1%) beneficial interest in the gambling
- 20 activities of the person who has been issued the owner's
- 21 license or operating agent contract.
- 22 (D) Any other information the commission considers
- 23 necessary for the effective administration of this article.

24 SECTION 15. IC 5-2-6.1-17, AS AMENDED BY P.L.129-2009,

25 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

26 JULY 1, 2012]: Sec. 17. (a) The division may not award compensation

27 under this chapter unless the violent crime was reported to a law

28 enforcement officer not more than seventy-two (72) hours after the

29 occurrence of the crime.

30 (b) The division may not award compensation under this chapter

31 until:

- 32 (1) law enforcement and other records concerning the
- 33 circumstances of the crime are available; and
- 34 (2) any criminal investigation directly related to the crime has
- 35 been substantially completed.

36 (c) If the crime involved a motor vehicle, the division may not

37 award compensation under this chapter until an information ~~or~~

38 ~~indictment~~ alleging the commission of a crime has been filed by a

39 prosecuting attorney.

40 SECTION 16. IC 5-2-7-1 IS AMENDED TO READ AS FOLLOWS

41 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) For each person arrested and

42 charged ~~by information or indictment~~ with a reportable offense (as

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1 defined in IC 10-13-3-18) there shall be filed with the court having
2 jurisdiction over the case:

- 3 (1) a fingerprint sample taken from the arrested person; and
4 (2) an affidavit, attached to or as an integral part of the fingerprint
5 sample, from an employee of the law enforcement agency
6 effecting the arrest that identifies the sample as taken from the
7 arrested person.

8 (b) The failure to file a fingerprint sample or an affidavit under
9 subsection (a) is not a ground for the dismissal of a criminal action or
10 the continuance of a criminal action.

11 SECTION 17. IC 5-8-1-17 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. If the offense for
13 which the defendant is convicted on impeachment is also the subject
14 of an ~~indictment~~ or information, the ~~indictment~~ or information is not
15 barred hereby.

16 SECTION 18. IC 5-8-1-21 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 21. An accusation in
18 writing against any district officer, county officer, township officer,
19 municipal officer, or prosecuting attorney may be presented by the
20 **grand jury prosecuting attorney** of the county in which the officer
21 accused is elected or appointed. **An accusation against a prosecuting**
22 **attorney shall be presented to a circuit or superior court in the**
23 **county, which may appoint a special prosecuting attorney.**

24 SECTION 19. IC 5-8-1-23 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 23. The ~~accusation~~
26 ~~must be delivered by the foreman of the grand jury to the prosecuting~~
27 ~~attorney of the county (or a special prosecuting attorney, if one has~~
28 ~~been appointed) except when he is the officer accused; who must~~
29 ~~cause a copy thereof to be served shall serve a copy to upon~~
30 the defendant, and require, by notice in writing of not less than ten (10)
31 days, that ~~he the defendant~~ appear before the circuit court of the
32 county at the time mentioned in the notice, and answer the accusation.
33 The original accusation must then be filed with the clerk of the court,
34 or if ~~he be the clerk is~~ the party accused, with the judge of the court.

35 SECTION 20. IC 5-8-1-30 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 30. The trial must be
37 by a jury, and conducted in all respects in the same manner as the trial
38 of ~~an indictment for a person charged with~~ a misdemeanor.

39 SECTION 21. IC 5-8-1-31 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 31. The prosecuting
41 attorney and the defendant are respectively entitled to such process as
42 may be necessary to enforce the attendance of witnesses, as upon a

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criminal trial. of an indictment.

SECTION 22. IC 5-8-1-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 34. The same proceedings may be had on like grounds for the removal of a prosecuting attorney, except that the accusation must be delivered by the foreman of the grand jury to the clerk, and by him to the judge of the circuit court of the county, or criminal court, if such court exists in the county, who must thereupon notify the attorney-general to act as prosecuting officer **appoint a special prosecuting attorney** in the matter. and shall designate some resident attorney to act as assistant to the attorney-general in such prosecution, whose compensation shall be fixed by the court and paid out of the county treasury.

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

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

A report that includes a finding that is critical of an examined entity must designate the uniform compliance guideline or the specific law upon which the finding is based. ~~The reports~~ **report** shall immediately be filed with the state examiner, and, after inspection of the report, the state examiner shall immediately file one (1) copy with the officer or person examined, one (1) copy with the auditing department of the municipality examined and reported upon, and one (1) copy in an electronic format under IC 5-14-6 of the reports of examination of state agencies, instrumentalities of the state, and federal funds administered by the state with the legislative services agency, as staff to the general assembly. Upon filing, the report becomes a part of the public records of the office of the state examiner, of the office or the person examined, of the auditing department of the municipality examined and reported upon, and of the legislative services agency, as staff to the general assembly. A report is open to public inspection at all reasonable times after it is filed. If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general. The attorney general shall diligently institute and prosecute civil proceedings against the delinquent officer, or upon the

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1 officer's official bond, or both, and against any other proper person that
2 will secure to the state or to the proper municipality the recovery of any
3 funds misappropriated, diverted, or unaccounted for.

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

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

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

32 (1) A substantial amount of public funds has been
33 misappropriated or diverted.

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

39 (e) After receiving a preliminary report under subsection (d), the
40 state examiner may provide a copy of the report to the attorney general.
41 The attorney general may institute and prosecute civil proceedings
42 against the delinquent officer or employee, or upon the officer's or

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1 employee's official bond, or both, and against any other proper person
2 that will secure to the state or to the proper municipality the recovery
3 of any funds misappropriated, diverted, or unaccounted for.

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

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

10 SECTION 24. IC 5-11-5.5-12, AS ADDED BY P.L.222-2005,
11 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2012]: Sec. 12. (a) A civil investigative demand issued under
13 this chapter may not require the production of any documentary
14 material, the submission of any answers to written interrogatories, or
15 the giving of any oral testimony if the material, answers, or testimony
16 would be protected from disclosure under the standards applicable:

17 (1) to a subpoena or subpoena duces tecum issued by a court; ~~to~~
18 ~~aid in a grand jury investigation;~~ or

19 (2) to a discovery request under the rules of trial procedure;
20 to the extent that the application of these standards to a civil
21 investigative demand is consistent with the purposes of this chapter.

22 (b) A civil investigative demand that is a specific demand for a
23 product of discovery supersedes any contrary order, rule, or statutory
24 provision, other than this section, that prevents or restricts disclosure
25 of the product of discovery. Disclosure of a product of discovery under
26 a specific demand does not constitute a waiver of a right or privilege
27 that the person making the disclosure may be otherwise entitled to
28 invoke to object to discovery of trial preparation materials.

29 SECTION 25. IC 5-11-5.5-15, AS AMENDED BY P.L.1-2006,
30 SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2012]: Sec. 15. (a) The official who issued the civil
32 investigative demand is the custodian of the documentary material,
33 answers to interrogatories, and transcripts of oral testimony received
34 under this chapter.

35 (b) An investigator who receives documentary material, answers to
36 interrogatories, or transcripts of oral testimony under this section shall
37 transmit ~~them the material, answers, or transcripts~~ to the official
38 who issued the civil investigative demand. The official shall take
39 physical possession of the material, answers, or transcripts and is
40 responsible for the use made of ~~them the material, answers, or~~
41 ~~transcripts~~ and for the return of documentary material.

42 (c) The official who issued the civil investigative demand may make

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1 copies of documentary material, answers to interrogatories, or
 2 transcripts of oral testimony as required for official use by the attorney
 3 general, the inspector general, or the state police. The material,
 4 answers, or transcripts may be used in connection with the taking of
 5 oral testimony under this chapter.

6 (d) Except as provided in subsection (e), documentary material,
 7 answers to interrogatories, or transcripts of oral testimony, while in the
 8 possession of the official who issued the civil investigative demand,
 9 may not be made available for examination to any person other than:

- 10 (1) the attorney general or designated personnel of the attorney
 11 general's office;
 12 (2) the inspector general or designated personnel of the inspector
 13 general's office; or
 14 (3) an officer of the state police who has been authorized by the
 15 official who issued the civil investigative demand.

16 (e) The restricted availability of documentary material, answers to
 17 interrogatories, or transcripts of oral testimony does not apply:

- 18 (1) if the person who provided:
 19 (A) the documentary material, answers to interrogatories, or
 20 oral testimony; or
 21 (B) a product of discovery that includes documentary material,
 22 answers to interrogatories, or oral testimony;
 23 consents to disclosure;
 24 (2) to the general assembly or a committee or subcommittee of the
 25 general assembly; or
 26 (3) to a state agency that requires the information to carry out its
 27 statutory responsibility.

28 Documentary material, answers to interrogatories, or transcripts of oral
 29 testimony requested by a state agency may be disclosed only under a
 30 court order finding that the state agency has a substantial need for the
 31 use of the information in carrying out its statutory responsibility.

32 (f) While in the possession of the official who issued the civil
 33 investigative demand, documentary material, answers to
 34 interrogatories, or transcripts of oral testimony shall be made available
 35 to the person, or to the representative of the person who produced the
 36 material, answered the interrogatories, or gave oral testimony. The
 37 official who issued the civil investigative demand may impose
 38 reasonable conditions upon the examination or use of the documentary
 39 material, answers to interrogatories, or transcripts of oral testimony.

40 (g) The official who issued the civil investigative demand and any
 41 attorney employed in the same office as the official who issued the civil
 42 investigative demand may use the documentary material, answers to

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1 interrogatories, or transcripts of oral testimony in connection with a
 2 proceeding before a ~~grand jury~~; a court or an agency. Upon the
 3 completion of the proceeding, the attorney shall return to the official
 4 who issued the civil investigative demand any documentary material,
 5 answers to interrogatories, or transcripts of oral testimony that are not
 6 under the control of the ~~grand jury~~; court or agency.

7 (h) Upon written request of a person who produced documentary
 8 material in response to a civil investigative demand, the official who
 9 issued the civil investigative demand shall return any documentary
 10 material in the official's possession to the person who produced
 11 documentary material, if:

12 (1) a proceeding before a ~~grand jury~~; a court or an agency
 13 involving the documentary material has been completed; or

14 (2) a proceeding before a ~~grand jury~~; a court or an agency
 15 involving the documentary material has not been commenced
 16 within a reasonable time after the completion of the investigation.

17 The official who issued the civil investigative demand is not required
 18 to return documentary material that is in the custody of a ~~grand jury~~; a
 19 court or an agency.

20 SECTION 26. IC 5-11-6-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) If a report is filed
 22 with the attorney general that discloses any offense, the state examiner
 23 shall present a certified copy of the report and competent testimony
 24 supporting the charges made in the report to the ~~grand jury~~
 25 **prosecuting attorney** of the county in which the offense is alleged to
 26 have been committed. ~~at its first convenient session.~~ The attorney
 27 general shall ~~direct, supervise, and~~ assist in the prosecution of the
 28 offense ~~before the grand jury and~~ in the courts.

29 (b) The per diem and actual expenses of all field or private
 30 examiners required by the state examiner, the attorney general, or any
 31 prosecuting attorney to attend ~~sessions of grand juries or~~ trials in
 32 connection with the prosecution shall be paid by the state upon
 33 vouchers approved by the state examiner from funds available for
 34 office and traveling expenses for the state board of accounts.

35 SECTION 27. IC 6-3-2-17 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. A reward received
 37 by an individual is exempt from taxation under IC 6-3-1 through
 38 IC 6-3-7, in an amount not to exceed one thousand dollars (\$1,000), if:

39 (1) the reward is for information provided to a law enforcement
 40 official or agency, or to a not-for-profit corporation whose
 41 exclusive purpose is to assist law enforcement officials or
 42 agencies;

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- 1 (2) the information that is provided assists in the arrest
- 2 ~~indictment, of~~ or the filing of charges against a person; and
- 3 (3) the individual is not:
 - 4 (A) compensated for investigating crimes or accidents
 - 5 (including an employee of, or an individual under contract
 - 6 with, a law enforcement agency);
 - 7 (B) the person convicted of the crime; or
 - 8 (C) the victim of the crime.

9 SECTION 28. IC 6-8.1-3-13 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) The attorney
 11 general and the respective county prosecuting attorneys have
 12 concurrent jurisdiction in conducting criminal prosecutions of tax
 13 matters. Either the attorney general or the respective prosecuting
 14 attorney may initiate criminal tax proceedings, and appear ~~before grand~~
 15 ~~juries~~ to report violations, give legal advice, or interrogate witnesses.

16 (b) Upon request by the department, the attorney general shall
 17 prosecute a civil action to collect unpaid taxes, penalties, and interest
 18 and to enforce the department's powers.

19 SECTION 29. IC 7.1-2-2-5 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. ~~Prosecutor: Powers~~
 21 ~~and Duties:~~ The prosecutor shall have the following powers and duties:

- 22 ~~(a)~~ (1) To prosecute before the commission all violations of laws
 23 pertaining to alcohol, alcoholic beverages, and tobacco, including
 24 violations pertaining to tobacco vending machines.
- 25 ~~(b)~~ (2) To prosecute before the commission all violations of the
 26 rules and regulations of the commission.
- 27 ~~(c)~~ (3) To assist the prosecuting attorneys of the various judicial
 28 circuits in the investigation and prosecution of violations of laws
 29 pertaining to alcohol, alcoholic beverages, and tobacco, including
 30 violations pertaining to tobacco vending machines, and to
 31 represent the state in these matters.
- 32 ~~(d)~~ (4) To appear before grand juries to assist in their the
 33 investigations into matters pertaining to alcohol, alcoholic
 34 beverages, and tobacco, including matters pertaining to tobacco
 35 vending machines.
- 36 ~~(e)~~ (5) To establish a seal of his the prosecutor's office.
- 37 ~~(f)~~ (6) To administer oaths and to do all other acts authorized by
 38 law for notaries public. ~~and;~~
- 39 ~~(g)~~ (7) To employ, with the consent of the commission and at
 40 salaries fixed by the commission in their the commission's
 41 budget, the clerical staff required by him the prosecutor to
 42 effectively discharge his the prosecutor's duties.

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1 SECTION 30. IC 7.1-2-3-10, AS AMENDED BY P.L.94-2008,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 10. (a) The commission shall have the power to
4 investigate the violation of a provision of this title and of the rules and
5 regulations of the commission and to report its findings to the
6 prosecuting attorney ~~or the grand jury~~ of the county in which the
7 violation occurred, or to the attorney general.

8 (b) The commission shall enter a memorandum of understanding
9 with the Indiana gaming commission authorizing the commission's
10 unlawful gaming enforcement division to conduct revocation actions
11 resulting from suspected violations of IC 35-45-5-3, IC 35-45-5-3.5, or
12 IC 35-45-5-4 as authorized by the following statutes:

- 13 (1) IC 7.1-3-18.5.
- 14 (2) IC 7.1-3-23-2(b).
- 15 (3) IC 7.1-3-23-5.

16 (c) A memorandum of understanding entered into under this section
17 must comply with the requirements of IC 4-33-19-8.

18 (d) The memorandum of understanding required by this section
19 must be entered into before January 1, 2008.

20 SECTION 31. IC 9-22-3-35 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 35. The prosecution of
22 a disposal facility, automotive salvage rebuilders, insurance company,
23 or individual suspected of having violated this section may be instituted
24 by the filing of an information ~~or indictment~~ in the same manner as
25 other criminal cases are commenced.

26 SECTION 32. IC 10-13-3-25 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. (a) If a person
28 whose arrest has been reported as required by section 24 of this chapter
29 is:

- 30 (1) transferred to the custody of another criminal justice agency;
- 31 or
- 32 (2) released without having an ~~indictment~~ or information filed
33 with any court;

34 a disposition report shall be furnished to the department by the agency
35 from whose custody the person has been transferred or released.
36 Disposition reports shall be made on forms provided by the department.

37 (b) If an ~~indictment~~ or information is filed in a court, the clerk of the
38 court shall furnish to the department, on forms provided by the
39 department, a report of the disposition of the case.

40 (c) A disposition report, whether by a criminal justice agency or a
41 court clerk, shall be sent to the department within thirty (30) days after
42 the disposition.

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1 SECTION 33. IC 10-16-9-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Except as
 3 otherwise provided, if the Indiana national guard is in active service on
 4 behalf of the state:

5 (1) in case of:

6 (A) public disaster;

7 (B) riot;

8 (C) tumult;

9 (D) breach of the peace; or

10 (E) resistance of process;

11 (2) whenever called upon in aid of civil authorities;

12 (3) under martial law;

13 (4) at encampments or any scheduled training periods or drills for
 14 which a member is entitled to pay, within or outside Indiana; or

15 (5) upon any other duty requiring the entire time of the Indiana
 16 national guard, or any part of the Indiana national guard;

17 the uniform code of military justice governing the armed forces of the
 18 United States with any subsequent change approved by the adjutant
 19 general as applicable to Indiana military law is in force and regarded
 20 as a part of this article for the Indiana national guard until the Indiana
 21 national guard is relieved from duty.

22 (b) Confinement in a penitentiary under this article must be in a
 23 penitentiary in Indiana. An offense committed by the member of the
 24 national guard while in active service may be tried and punished by a
 25 court-martial lawfully appointed.

26 (c) Except as provided in subsections (d) and (e), if the accused
 27 member of the Indiana national guard is found guilty, the convicted
 28 member shall be punished according to the uniform code of military
 29 justice and the rules and regulations governing the United States armed
 30 forces but within the limits prescribed by federal law for court-martial
 31 in the national guard.

32 (d) If the offense charged is also an offense by the civil law of
 33 Indiana, the officer whose duty it is to approve the charge may order
 34 the person charged to be turned over to the civil authorities for trial.

35 (e) Punishment under the rules and articles of the uniform code of
 36 military justice that extend to the taking of life may not be inflicted,
 37 except in time of actual war, invasion, or insurrection, declared by
 38 proclamation of the governor to exist, or to be threatened or
 39 anticipated.

40 (f) If a:

41 (1) person resisting the laws of the state or unlawfully or riotously
 42 assembled for that purpose; or

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1 (2) bystander or other person in the vicinity;
 2 is killed or injured by state forces called into active service under this
 3 article and acting in obedience to the orders of ~~its~~ a commanding
 4 officer, the officer or member of the Indiana national guard is not
 5 subject to ~~indictment~~, **criminal charges**, trial, or any civil process
 6 other than by a court-martial, to be convened for that purpose by the
 7 governor.

8 (g) The finding of the court-martial, when submitted to and
 9 approved by the governor, in accordance with the uniform code of
 10 military justice, is final and conclusive on all persons.

11 (h) If an ~~indictment is found~~ or information is filed against the
 12 person, a writ or other process may not be issued by the clerk of the
 13 court where the ~~indictment was returned~~ or information ~~was~~ filed
 14 against the defendant. The clerk shall immediately transmit to the
 15 governor a certified copy, and, upon the receipt of the certified copy,
 16 the governor shall cause to be convened a court-martial to determine
 17 the truth of the charges and the punishment, if any, to be inflicted.

18 SECTION 34. IC 11-12-4-2 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The department
 20 shall inspect each county jail at least one (1) time each year to
 21 determine whether it is complying with the standards adopted under
 22 section 1 of this chapter. If the department determines that a jail is not
 23 complying with the standards, the commissioner shall give written
 24 notice of this determination to the county sheriff, the board of county
 25 commissioners, the prosecuting attorney, the circuit court, and all
 26 courts having criminal or juvenile jurisdiction in that county. This
 27 notice must specify which standards are not being met and state the
 28 commissioner's recommendations regarding compliance.

29 (b) If after six (6) months from the date of the written notice the
 30 department determines that the county is not making a good faith effort
 31 toward compliance with the standards specified in the notice, the
 32 commissioner may:

33 (1) petition the circuit court for an injunction prohibiting the
 34 confinement of persons in all or any part of the jail, or otherwise
 35 restricting the use of the jail; or

36 (2) recommend, in writing, to the prosecuting attorney and each
 37 court with criminal or juvenile jurisdiction that ~~a grand jury be~~
 38 ~~convened to the prosecuting attorney~~ tour and examine the
 39 county jail. ~~under IC 35-34-2-11.~~

40 (c) Upon receipt of notice by the commissioner that the jail does not
 41 comply with standards adopted under section 1 of this chapter, the
 42 sheriff may bring an action in the circuit court against the board of

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1 county commissioners or county council for appropriate mandatory or
2 injunctive relief.

3 SECTION 35. IC 12-10-3-11 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) A person, other
5 than a person against whom a complaint concerning an endangered
6 adult has been made, who in good faith:

7 (1) makes or causes to be made a report required to be made
8 under this chapter;

9 (2) testifies or participates in any investigation or administrative
10 or judicial proceeding on matters arising from the report;

11 (3) makes or causes to be made photographs or x-rays of an
12 endangered adult; or

13 (4) discusses a report required to be made under this chapter with
14 the division, the adult protective services unit, a law enforcement
15 agency, or other appropriate agency;

16 is immune from both civil and criminal liability arising from those
17 actions.

18 (b) An individual may not be excused from testifying before a court
19 or grand jury concerning a report made under this chapter on the basis
20 that the testimony is privileged information, unless the individual is an
21 attorney, a physician, a clergyman, a husband, or a wife who is not
22 required to testify under IC 34-46-3-1.

23 (c) An employer may not discharge, demote, transfer, prepare a
24 negative work performance evaluation, or reduce benefits, pay, or work
25 privileges, or take any other action to retaliate against an employee who
26 in good faith files a report under this chapter.

27 SECTION 36. IC 16-41-8-5, AS AMENDED BY P.L.94-2010,
28 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2012]: Sec. 5. (a) This section does not apply to medical
30 testing of an individual for whom an indictment or information is filed
31 for a sex crime and for whom a request to have the individual tested
32 under section 6 of this chapter is filed.

33 (b) The following definitions apply throughout this section:

34 (1) "Bodily fluid" means blood, human waste, or any other bodily
35 fluid.

36 (2) "Dangerous disease" means any of the following:

37 (A) Chancroid.

38 (B) Chlamydia.

39 (C) Gonorrhea.

40 (D) Hepatitis.

41 (E) Human immunodeficiency virus (HIV).

42 (F) Lymphogranuloma venereum.

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(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

(c) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with committing battery by body waste (IC 35-42-2-6), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(d) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is

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1 an endangered adult (as defined in IC 12-10-3-2), the prosecuting
2 attorney shall petition a court to order a defendant charged with the
3 commission of an offense involving the transmission of a bodily fluid
4 to submit to a screening test to determine whether the defendant is
5 infected with a dangerous disease. In the petition, the prosecuting
6 attorney must set forth information demonstrating that:

7 (1) the defendant has committed an offense; and

8 (2) a bodily fluid was transmitted from the defendant to the victim
9 in connection with the commission of the offense.

10 The court shall set the matter for hearing not later than forty-eight (48)
11 hours after the prosecuting attorney files a petition under this
12 subsection. The alleged victim of the offense, the parent, guardian, or
13 custodian of an alleged victim who is less than eighteen (18) years of
14 age, and the parent, guardian, or custodian of an alleged victim who is
15 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive
16 notice of the hearing and are entitled to attend the hearing. The
17 defendant and the defendant's counsel are entitled to receive notice of
18 the hearing and are entitled to attend the hearing. If, following the
19 hearing, the court finds probable cause to believe that the defendant has
20 committed an offense and that a bodily fluid was transmitted from the
21 defendant to the alleged victim in connection with the commission of
22 the offense, the court may order the defendant to submit to a screening
23 test for one (1) or more dangerous diseases. If the defendant is charged
24 with committing battery by body waste (IC 35-42-2-6), the court may
25 limit testing under this subsection to a test only for human
26 immunodeficiency virus (HIV). However, the court may order
27 additional testing for human immunodeficiency virus (HIV) as may be
28 medically appropriate. The court shall take actions to ensure the
29 confidentiality of evidence introduced at the hearing.

30 (e) The testimonial privileges applying to communication between
31 a husband and wife and between a health care provider and the health
32 care provider's patient are not sufficient grounds for not testifying or
33 providing other information at a hearing conducted in accordance with
34 this section.

35 (f) A health care provider (as defined in IC 16-18-2-163) who
36 discloses information that must be disclosed to comply with this
37 section is immune from civil and criminal liability under Indiana
38 statutes that protect patient privacy and confidentiality.

39 (g) The results of a screening test conducted under this section shall
40 be kept confidential if the defendant ordered to submit to the screening
41 test under this section has not been convicted of the potentially disease
42 transmitting offense or offense involving the transmission of a bodily

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1 fluid with which the defendant is charged. The results may not be made
 2 available to any person or public or private agency other than the
 3 following:

- 4 (1) The defendant and the defendant's counsel.
 5 (2) The prosecuting attorney.
 6 (3) The department of correction or the penal facility, juvenile
 7 detention facility, or secure private facility where the defendant
 8 is housed.
 9 (4) The alleged victim or the parent, guardian, or custodian of an
 10 alleged victim who is less than eighteen (18) years of age, or the
 11 parent, guardian, or custodian of an alleged victim who is an
 12 endangered adult (as defined in IC 12-10-3-2), and the alleged
 13 victim's counsel.

14 The results of a screening test conducted under this section may not be
 15 admitted against a defendant in a criminal proceeding or against a child
 16 in a juvenile delinquency proceeding.

17 (h) As soon as practicable after a screening test ordered under this
 18 section has been conducted, the alleged victim or the parent, guardian,
 19 or custodian of an alleged victim who is less than eighteen (18) years
 20 of age, or the parent, guardian, or custodian of an alleged victim who
 21 is an endangered adult (as defined in IC 12-10-3-2), and the victim's
 22 counsel shall be notified of the results of the test.

23 (i) An alleged victim may disclose the results of a screening test to
 24 which a defendant is ordered to submit under this section to an
 25 individual or organization to protect the health and safety of or to seek
 26 compensation for:

- 27 (1) the alleged victim;
 28 (2) the alleged victim's sexual partner; or
 29 (3) the alleged victim's family.

30 (j) The court shall order a petition filed and any order entered under
 31 this section sealed.

32 (k) A person that knowingly or intentionally:

- 33 (1) receives notification or disclosure of the results of a screening
 34 test under this section; and
 35 (2) discloses the results of the screening test in violation of this
 36 section;

37 commits a Class B misdemeanor.

38 SECTION 37. IC 16-41-8-6, AS ADDED BY P.L.94-2010,
 39 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2012]: Sec. 6. (a) If an indictment or information alleges that
 41 the defendant compelled another person to engage in sexual activity by
 42 force or threat of force, the alleged victim of the offense described in

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1 the ~~indictment or~~ information may request that the defendant against
 2 whom the ~~indictment or~~ information is filed be tested for the human
 3 immunodeficiency virus (HIV).

4 (b) Not later than forty-eight (48) hours after an alleged victim
 5 described in subsection (a) requests that the defendant be tested for the
 6 human immunodeficiency virus (HIV), the defendant must be tested for
 7 the human immunodeficiency virus (HIV).

8 (c) As soon as practicable, the results of a test for the human
 9 immunodeficiency virus (HIV) conducted under subsection (b) shall be
 10 sent to:

- 11 (1) the alleged victim;
- 12 (2) the parent or guardian of the alleged victim, if the alleged
 13 victim is less than eighteen (18) years of age; and
- 14 (3) the defendant.

15 (d) If follow-up testing of the defendant for the human
 16 immunodeficiency virus (HIV) is necessary, the results of follow-up
 17 testing of the defendant shall be sent to:

- 18 (1) the alleged victim;
- 19 (2) the parent or guardian of the alleged victim if the alleged
 20 victim is less than eighteen (18) years of age; and
- 21 (3) the defendant.

22 SECTION 38. IC 16-42-19-26 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 26. In:

- 24 (1) any complaint, information, ~~or~~ affidavit; ~~or indictment~~; and
- 25 (2) any action or proceeding brought for the enforcement of any
 26 provision of this chapter;

27 it is not necessary to negate an exception, excuse, proviso, or
 28 exemption contained in this chapter. The burden of proof of such an
 29 exception, excuse, proviso, or exemption is upon the defendant.

30 SECTION 39. IC 16-42-20-6 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) It is not necessary
 32 for the state to negate any exemption or exception in this chapter or in
 33 IC 35-48 in a complaint, an information, ~~an indictment~~, or other
 34 pleading or in a trial, hearing, or other proceeding under this chapter or
 35 under IC 35-48. The burden of proof of an exemption or exception is
 36 on the person claiming the exemption or exception.

37 (b) In the absence of proof that a person is the duly authorized
 38 holder of an appropriate registration or order form issued under
 39 IC 35-48-3, a person is presumed not to be the holder of the registration
 40 or form.

41 SECTION 40. IC 23-2-6-42 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 42. If a person claims

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1 an exemption in any complaint, information, ~~indictment~~, writ, or
2 proceeding under this chapter:

- 3 (1) the commissioner is not required to disprove the exemption;
- 4 and
- 5 (2) the party claiming the exemption bears the burden of proof
- 6 concerning the existence of the exemption.

7 SECTION 41. IC 23-2-6-43 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 43. In any complaint,
9 information, ~~indictment~~, writ, or proceeding brought under this chapter
10 that alleges a violation of section 17 of this chapter solely on the failure
11 in an individual case to make physical delivery within the applicable
12 time under section 19(a)(2) of this chapter, it is a defense if both of the
13 following are shown:

- 14 (1) Failure to make physical delivery was due solely to factors
- 15 beyond the control of all of the following:
 - 16 (A) The seller.
 - 17 (B) Officers, directors, partners, agents, servants, or employees
 - 18 of the seller.
 - 19 (C) Each person occupying a similar status or performing
 - 20 similar functions as a person described in clause (B).
 - 21 (D) Each person who directly or indirectly controls or is
 - 22 controlled by the seller or by any person described in clause
 - 23 (B) or (C).
 - 24 (E) The seller's affiliates, subsidiaries, and successors.
- 25 (2) Physical delivery was completed within a reasonable time
- 26 under the applicable circumstances.

27 SECTION 42. IC 24-1-1-6 IS REPEALED [EFFECTIVE JULY 1,
28 2012]. ~~Sec. 6: It shall be the duty of the judges of the circuit courts of~~
29 ~~this state specially to instruct the grand juries as to the provisions of~~
30 ~~this chapter.~~

31 SECTION 43. IC 24-1-2-5 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. It shall be the duty
33 of the attorney general and of the prosecuting attorney of each judicial
34 circuit to institute appropriate proceedings to prevent and restrain
35 violations of the provisions of this chapter or any other statute or the
36 common law relating to the subject matter of this chapter and to
37 prosecute any person or persons guilty of having violated any of the
38 penal provisions thereof. In all criminal proceedings the prosecution
39 may be by way of ~~affidavit or indictment~~ **information** the same as in
40 other criminal matters, and the attorney general shall have concurrent
41 jurisdiction with the prosecuting attorneys in instituting and
42 prosecuting any such actions. All civil proceedings to prevent and

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1 restrain violations shall be in the name of the state of Indiana upon
 2 relation of the proper party. The attorney general may file such
 3 proceedings upon ~~his~~ **the attorney general's** own relation or that of
 4 any private person in any circuit or superior court of the state, without
 5 applying to such court for leave, when ~~he~~ **the attorney general** shall
 6 deem it ~~his~~ **the attorney general's** duty so to do. Such proceedings
 7 shall be by information filed by any prosecuting attorney in a circuit or
 8 superior court of the proper county upon ~~his~~ **the prosecuting**
 9 **attorney's** own relation whenever ~~he~~ **the prosecuting attorney** shall
 10 deem it his **or her** duty so to do, or shall be directed by the court or
 11 governor or attorney general, and an information may be filed by any
 12 taxpayer on ~~his~~ **the taxpayer's** own relation. If judgment or decree be
 13 rendered against any domestic corporation or against any person
 14 claiming to be a corporation, the court may cause the costs to be
 15 collected by execution against the person claiming to be a corporation
 16 or by attachment against any or all of the directors or officers of the
 17 corporation, and may restrain the corporation or any director, agent,
 18 employee, or stockholder and appoint a receiver for ~~its~~ **the**
 19 **corporation's** property and effects, and take an accounting and make
 20 distribution of ~~its~~ **the corporation's** assets among ~~its~~ **the**
 21 **corporation's** creditors, and exercise any other power or authority
 22 necessary and proper for carrying out the provisions of this chapter. If
 23 judgment or decree be rendered against any corporation incorporated
 24 under the laws of the United States, or of any district or territory
 25 thereof, or of any state other than this state, or of any foreign country,
 26 the court may cause the costs to be collected as in this section provided
 27 and may render judgment and decree of ouster perpetually excluding
 28 such corporation from the privilege of transacting business in the state
 29 of Indiana and forfeiting to the school fund any or all property of such
 30 corporation within the state, and shall exercise such power and
 31 authority with regard to the property of such corporation as may be
 32 exercised with regard to that of domestic corporations.

33 SECTION 44. IC 24-1-2-11 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. Any person or
 35 officer, agent, or employee of a corporation may be examined as a
 36 witness or a party as in other cases, in any civil action instituted under
 37 the provisions of this chapter and required to disclose all the facts
 38 relevant to the case in ~~his~~ **the witness's or party's** knowledge as
 39 provided in this chapter, but the testimony of such witness or party or
 40 any answer to any question propounded to ~~him~~ **the witness or party** in
 41 such examination shall not be used against such witness or party in any
 42 criminal prosecution except in case of perjury committed by ~~him~~ **the**

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1 **witness or party** therein; and ~~he~~ **the witness or party** shall not be
 2 liable to **criminal** trial ~~by indictment or affidavit~~ or to punishment for
 3 any offense inquired about; provided, however, that such exemption
 4 shall be personal to such witness **or party** and shall not exempt or
 5 render immune the corporation of which such witness **or party** shall
 6 be an officer, agent, or employee, and such corporation shall be as
 7 liable for any violation of this chapter as if such officer, agent, or
 8 employee had not so testified.

9 SECTION 45. IC 25-4-1-4, AS AMENDED BY P.L.194-2005,
 10 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2012]: Sec. 4. The board shall be entitled to the services of the
 12 attorney general in connection with any of the business of the board.
 13 The board shall have the power to administer oaths and take testimony
 14 and proofs concerning any matter which may come within its
 15 jurisdiction. The attorney general, the prosecuting attorney of any
 16 county, the board, or a citizen of a county wherein any person, not
 17 herein exempted, shall engage in the practice of architecture or
 18 landscape architecture, as herein defined, without first having obtained
 19 a certificate of registration, or without first having renewed an expired
 20 certificate of registration, so to practice, may, in accordance with the
 21 provisions of the laws of this state governing injunctions, maintain an
 22 action, in the name of the state of Indiana, to enjoin such person from
 23 engaging in the practice of architecture or landscape architecture, as
 24 herein defined, until a certificate of registration is secured, or renewed,
 25 in accordance with the provisions of this chapter. Any person who has
 26 been so enjoined and who violates the injunction shall be punished for
 27 contempt of court. The injunction shall not relieve such person so
 28 practicing architecture or landscape architecture without a certificate
 29 of registration, or without first having renewed an expired certificate of
 30 registration, from a criminal prosecution therefor, as is provided by this
 31 chapter, but such remedy by injunction shall be in addition to any
 32 remedy provided for herein for the criminal prosecution of such
 33 offender. In charging any person in a complaint for an injunction or in
 34 an affidavit ~~or information or indictment~~, with the violation of the
 35 provisions of this chapter, by practicing architecture or landscape
 36 architecture without a certificate of registration or without having
 37 renewed an expired certificate of registration, it shall be sufficient to
 38 charge that the person did upon a certain day and in a certain county
 39 engage in the practice of architecture or landscape architecture, without
 40 having a certificate of registration or without having renewed an
 41 expired certificate of registration, to so practice, without averring any
 42 further or more particular facts concerning the same. The attorney

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1 general and the Indiana professional licensing agency may use the
 2 registered architects and registered landscape architects investigative
 3 fund established by section 32 of this chapter to hire investigators and
 4 other employees to enforce the provisions of this article and to
 5 investigate and prosecute violations of this article.

6 SECTION 46. IC 25-6.1-7-4 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. ~~Affidavits,~~
 8 ~~Informations, Indictments.~~ In charging any person in an affidavit **or**
 9 information ~~or indictment~~ with a violation of this article by carrying on
 10 (without a license obtained under, or pursuant to an exemption defined
 11 in, this article) an activity for the carrying-on of which a license issued
 12 under, or an exemption defined in, this article is required, it shall be
 13 sufficient to charge that the person did, upon a certain day and in a
 14 certain county, engage in such an activity and that ~~he or it~~ **the person**
 15 did not have a license to do so or an exemption (defined in this article)
 16 permitting ~~him or it~~ **the person** to do so. No further or more particular
 17 facts need be averred concerning the matter.

18 SECTION 47. IC 25-14-1-14 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. The attorney
 20 general, prosecuting attorney, the state board of dentistry, or any citizen
 21 of any county where any person shall engage in the practice of
 22 dentistry, as herein defined, without possessing a valid license so to do,
 23 may, in accordance with the laws of the state of Indiana governing
 24 injunctions, maintain an action in the name of the state of Indiana to
 25 enjoin such person from engaging in the practice of dentistry, as herein
 26 defined, until a valid license to practice dentistry be secured. ~~And~~ Any
 27 person who has been so enjoined who shall violate such injunction
 28 shall be punished for contempt of court: Provided, that such injunction
 29 shall not relieve such person so practicing dentistry without a valid
 30 license from a criminal prosecution therefor as is now provided by law,
 31 but such remedy by injunction shall be in addition to any remedy now
 32 provided for the criminal prosecution of such offender. In charging any
 33 person in a complaint for injunction, or in an affidavit **or** information,
 34 ~~or indictment,~~ with a violation of this law by practicing dentistry
 35 without a valid license, it shall be sufficient to charge that such person
 36 did, upon a certain day and in a certain county, engage in the practice
 37 of dentistry, ~~he~~ **the person** not having a valid license so to do, without
 38 averring any further or more particular facts concerning the same.

39 SECTION 48. IC 25-22.5-8-4 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. Injunctions. The
 41 attorney general, prosecuting attorney, the board, or any citizen of any
 42 county where any person engages in the practice of medicine or

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1 osteopathic medicine without a license or a permit to do so, may,
 2 according to the laws of Indiana governing injunctions, maintain an
 3 action in the name of the state of Indiana to enjoin the person from
 4 engaging in the practice of medicine or osteopathic medicine. In
 5 charging any person in an affidavit ~~or information or indictment~~, with
 6 a violation of this law by practicing medicine or osteopathic medicine
 7 without a license or permit, it is sufficient to charge that ~~he the person~~
 8 did, upon a certain day and in a certain county, engage in the unlawful
 9 practice of medicine or osteopathic medicine and that ~~he the person~~
 10 did not have any license or permit to do so. No further or more
 11 particular fact need be averred concerning the matter.

12 SECTION 49. IC 25-38.1-4-12, AS ADDED BY P.L.2-2008,
 13 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2012]: Sec. 12. (a) If a person engages in the practice of
 15 veterinary medicine without a license or certificate issued under this
 16 article:

- 17 (1) the attorney general;
- 18 (2) a prosecuting attorney;
- 19 (3) the board; or
- 20 (4) a citizen;

21 may maintain an action in the name of the state to enjoin the person
 22 from engaging in the practice of veterinary medicine.

23 (b) In charging a person under subsection (a) in an affidavit ~~or~~
 24 information ~~or indictment~~ with a violation of this article, it is sufficient
 25 to charge that the person did, on a certain date and in a certain county,
 26 engage in the practice of veterinary medicine without a license or
 27 permit issued under this article.

28 SECTION 50. IC 28-1-7.5-4, AS AMENDED BY P.L.217-2007,
 29 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2012]: Sec. 4. (a) The bank, trust company, corporate
 31 fiduciary, or stock savings bank and the holding company shall file
 32 with the department three (3) copies of the plan of exchange certified
 33 by an officer of each as having been approved in accordance with
 34 section 3 of this chapter. They shall also file a statement which
 35 includes:

- 36 (1) information as to the earnings and financial condition of the
 37 bank, trust company, corporate fiduciary, or stock savings bank as
 38 of the end of its last preceding year as filed with the department,
 39 and similar information, to the extent readily available, as of a
 40 date not earlier than one hundred twenty (120) days before the
 41 filing of the plan of exchange;
- 42 (2) a balance sheet of the holding company as of the date of the

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- 1 most recent statement of condition of the bank, trust company,
 2 corporate fiduciary, or stock savings bank required by subdivision
 3 (1);
 4 (3) a pro forma balance sheet of the holding company based on
 5 the assumption that the plan of exchange was effective as
 6 proposed at the date of the balance sheet of the holding company
 7 required by subdivision (2);
 8 (4) a description of the business intended to be done by the
 9 holding company and of any plans or proposals that the holding
 10 company may have to sell its assets or merge or consolidate with
 11 any other person, or to make any other material change in its
 12 investment policy, business, corporate structures, or management;
 13 (5) a list of all persons who are or who have been selected to
 14 become directors or officers of the holding company, a
 15 description of their principal occupations, a list of all offices and
 16 positions held by them during the past five (5) years, and
 17 information about whether any of them:
 18 (A) is under indictment for **or has been charged with**;
 19 (B) has been convicted of; or
 20 (C) has pleaded guilty or nolo contendere to;
 21 a felony involving fraud, deceit, or misrepresentation under the
 22 laws of Indiana or any other jurisdiction;
 23 (6) a description of any plans or proposals that the holding
 24 company may have to liquidate the bank, trust company,
 25 corporate fiduciary, or stock savings bank to sell its assets or
 26 merge or consolidate it with any person, or to make any other
 27 material change in its investment policy, business, corporate
 28 structure, or management;
 29 (7) a copy of a preliminary proxy or information statement
 30 prepared for distribution to the shareholders of the bank, trust
 31 company, corporate fiduciary, or stock savings bank setting forth
 32 all material facts relating to the holding company and the
 33 proposed plan of exchange; and
 34 (8) such other information as the director may prescribe.
 35 (b) The statement must:
 36 (1) assert the completeness and accuracy of the information
 37 referred to in subsection (a)(1) through (a)(8); and
 38 (2) be made under oath or affirmation by an officer of the bank,
 39 trust company, corporate fiduciary, or stock savings bank and an
 40 officer of the holding company.
 41 If any material change occurs in the facts set forth in the statement filed
 42 with the department, an amendment setting forth the change, together

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1 with copies of all documents and other material relevant to the change,
 2 shall be filed with the department within five (5) business days after the
 3 parties learn of the change.

4 SECTION 51. IC 28-1-29-5, AS AMENDED BY P.L.35-2010,
 5 SECTION 123, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) Every person doing business
 7 as a debt management company shall make application to the
 8 department for a license to engage in such business. Such application
 9 shall be in the form prescribed by the department and shall contain
 10 such information as the department may require.

11 (b) The department may not issue a license unless the department
 12 finds that the financial responsibility, character, and fitness of:

13 (1) the applicant and any significant affiliate of the applicant;

14 (2) each executive officer, director, or manager of the applicant,
 15 or any other individual having a similar status or performing a
 16 similar function for the applicant; and

17 (3) if known, each person directly or indirectly owning of record
 18 or owning beneficially at least ten percent (10%) of the
 19 outstanding shares of any class of equity security of the applicant;
 20 warrant belief that the business will be operated honestly and fairly
 21 under this chapter. The department is entitled to request evidence of an
 22 applicant's financial responsibility, character, and fitness.

23 (c) An application submitted under this section must indicate
 24 whether any individuals described in subsection (b)(2) or (b)(3):

25 (1) are, at the time of the application, **named in an information**
 26 **or** under indictment for a felony under the laws of Indiana or any
 27 other jurisdiction; or

28 (2) have been convicted of or pleaded guilty or nolo contendere
 29 to a felony under the laws of Indiana or any other jurisdiction.

30 (d) The department may deny an application under this section if the
 31 director of the department determines that the application was
 32 submitted for the benefit of, or on behalf of, a person who does not
 33 qualify for a license.

34 (e) Upon written request, an applicant is entitled to a hearing under
 35 IC 4-21.5 on the question of the qualifications of the applicant for a
 36 license.

37 SECTION 52. IC 28-7-5-4, AS AMENDED BY P.L.35-2010,
 38 SECTION 170, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) Application for a
 40 pawnbroker's license shall be submitted on a form prescribed by the
 41 department and must include all information required by the
 42 department. An application submitted under this section must identify

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1 the location or locations at which the applicant proposes to engage in
 2 business as a pawnbroker in Indiana. If any business, other than the
 3 business of acting as a pawnbroker under this chapter, will be
 4 conducted by the applicant or another person at any location identified
 5 under this subsection, the applicant shall indicate for each location at
 6 which another business will be conducted:

- 7 (1) the nature of the other business;
- 8 (2) the name under which the other business operates;
- 9 (3) the address of the principal office of the other business;
- 10 (4) the name and address of the business's resident agent in
 11 Indiana; and
- 12 (5) any other information the director may require.

13 (b) An application submitted under this section must indicate
 14 whether any individual described in section 8(a)(2) or 8(a)(3) of this
 15 chapter at the time of the application:

- 16 (1) **has been charged with or** is under indictment for a felony
 17 under the laws of Indiana or any other jurisdiction; or
- 18 (2) has been convicted of or pleaded guilty or nolo contendere to
 19 a felony under the laws of Indiana or any other jurisdiction.

20 (c) The director may request that the applicant provide evidence of
 21 compliance with this section at:

- 22 (1) the time of application;
- 23 (2) the time of renewal of a license; or
- 24 (3) any other time considered necessary by the director.

25 (d) For purposes of subsection (c), evidence of compliance with this
 26 section may include:

- 27 (1) criminal background checks, including a national criminal
 28 history background check (as defined in IC 10-13-3-12) by the
 29 Federal Bureau of Investigation for any individual described in
 30 subsection (b);
- 31 (2) credit histories; and
- 32 (3) other background checks considered necessary by the director.

33 If the director requests a national criminal history background check
 34 under subdivision (1) for an individual described in ~~that~~ subdivision
 35 **(1)**, the director shall require the individual to submit fingerprints to the
 36 department or to the state police department, as appropriate, at the time
 37 evidence of compliance is requested under subsection (c). The
 38 individual to whom the request is made shall pay any fees or costs
 39 associated with the fingerprints and the national criminal history
 40 background check. The national criminal history background check
 41 may be used by the director to determine the individual's compliance
 42 with this section. The director or the department may not release the

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1 results of the national criminal history background check to any private
2 entity.

3 SECTION 53. IC 28-8-4-20, AS AMENDED BY P.L.172-2011,
4 SECTION 134, IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2012]: Sec. 20. (a) A person may not engage in
6 the business of money transmission without a license required by this
7 chapter.

8 (b) An application for a license must be submitted on a form
9 prescribed by the department and must include the information
10 required by the department.

11 (c) An application submitted under this section must indicate
12 whether any individuals described in section 35(b)(2) or 35(b)(3) of
13 this chapter:

14 (1) are, at the time of the application, **named in an information**
15 **or** under indictment for a felony under the laws of Indiana or any
16 other jurisdiction; or

17 (2) have been convicted of or pleaded guilty or nolo contendere
18 to a felony under the laws of Indiana or any other jurisdiction.

19 (d) The director may request evidence of compliance with this
20 section at:

21 (1) the time of application;

22 (2) the time of renewal of a license; or

23 (3) any other time considered necessary by the director.

24 (e) For purposes of subsection (d), evidence of compliance may
25 include:

26 (1) criminal background checks, including a national criminal
27 history background check (as defined in IC 10-13-3-12) by the
28 Federal Bureau of Investigation for an individual described in
29 section 35(b)(2) or 35(b)(3) of this chapter;

30 (2) credit histories; and

31 (3) other background checks considered necessary by the director.

32 If the director requests a national criminal history background check
33 under subdivision (1) for an individual described in ~~that~~ subdivision (1)
34 the director shall require the individual to submit fingerprints to the
35 department or to the state police department, as appropriate, at the time
36 evidence of compliance is requested under subsection (d). The
37 individual to whom the request is made shall pay any fees or costs
38 associated with the fingerprints and the national criminal history
39 background check. The national criminal history background check
40 may be used by the director to determine the individual's compliance
41 with this section. The director or the department may not release the
42 results of the national criminal history background check to any private

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- 1 entity.
- 2 (f) If the department of state revenue notifies the department that a
- 3 person is on the most recent tax warrant list, the department shall not
- 4 issue or renew the person's license until:
- 5 (1) the person provides to the department a statement from the
- 6 department of state revenue that the person's tax warrant has been
- 7 satisfied; or
- 8 (2) the department receives a notice from the commissioner of the
- 9 department of state revenue under IC 6-8.1-8-2(k).
- 10 SECTION 54. IC 28-8-4-24, AS AMENDED BY P.L.217-2007,
- 11 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2012]: Sec. 24. An application must contain the following:
- 13 (1) The name of the applicant.
- 14 (2) The applicant's principal address.
- 15 (3) A fictitious or trade name, if any, used by the applicant in the
- 16 conduct of its business.
- 17 (4) The location of the applicant's business records.
- 18 (5) The history of the applicant's:
- 19 (A) material litigation; and
- 20 (B) criminal indictments, **informations**, convictions, and
- 21 guilty or nolo contendere pleas for felonies involving fraud,
- 22 deceit, or misrepresentation under the laws of Indiana or any
- 23 other jurisdiction.
- 24 (6) A description of:
- 25 (A) the activities conducted by the applicant;
- 26 (B) the applicant's history of operations; and
- 27 (C) the business activities in which the applicant seeks to be
- 28 engaged in Indiana.
- 29 (7) A list identifying the applicant's proposed authorized delegates
- 30 in Indiana.
- 31 (8) A sample authorized delegate contract, if applicable.
- 32 (9) A sample form of payment instrument, if applicable.
- 33 (10) The location or locations at which the applicant and its
- 34 authorized delegates propose to conduct the licensed activities in
- 35 Indiana. If any business, other than the business of money
- 36 transmission under this chapter, will be conducted by the
- 37 applicant or another person at any location identified under this
- 38 subdivision, the applicant shall indicate for each location at which
- 39 another business will be conducted:
- 40 (A) the nature of the other business;
- 41 (B) the name under which the other business operates;
- 42 (C) the address of the principal office of the other business;

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1 (D) the name and address of the business's resident agent in
 2 Indiana; and
 3 (E) any other information that the director may require.
 4 However, the applicant is not required to submit the information
 5 required by this subdivision if the location at which the other
 6 business will be conducted is the place of business of an
 7 authorized delegate that is not under common control with the
 8 applicant.
 9 (11) The name and address of the clearing bank or banks on
 10 which the applicant's payment instruments will be drawn or
 11 through which such payment instruments will be payable.
 12 (12) Documents revealing that the applicant has a net worth of at
 13 least one hundred thousand dollars (\$100,000), calculated in
 14 accordance with generally accepted accounting principles.
 15 (13) In addition to the requirements of subdivision (12), an
 16 applicant that sells payment instruments at more than one (1)
 17 location or through authorized delegates must have an additional
 18 net worth of the lesser of:
 19 (A) fifty thousand dollars (\$50,000) for each location in
 20 Indiana;
 21 (B) fifty thousand dollars (\$50,000) for each authorized
 22 delegate located in Indiana; or
 23 (C) five hundred thousand dollars (\$500,000).
 24 SECTION 55. IC 28-8-4-39 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 39. A licensee shall file
 26 a written report with the director not later than fifteen (15) days after
 27 the occurrence of one (1) or more of the following events:
 28 (1) The filing for bankruptcy or reorganization by the licensee.
 29 (2) The institution of revocation or suspension proceedings
 30 against the licensee by a state or governmental authority with
 31 regard to the licensee's money transmission activities.
 32 (3) ~~A felony indictment of~~ The licensee or ~~of~~ a key officer or
 33 director of the licensee **is named in an information or**
 34 **indictment** related to money transmission activities.
 35 (4) A felony conviction of the licensee or a key officer or director
 36 of the licensee related to money transmission activities.
 37 The written report must give details concerning the event.
 38 SECTION 56. IC 28-8-5-11, AS AMENDED BY P.L.172-2011,
 39 SECTION 135, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) A person shall not engage
 41 in the business of cashing checks for consideration without first
 42 obtaining a license.

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1 (b) Each application for a license shall be in writing in such form as
 2 the director may prescribe and shall include all of the following:

3 (1) The following information pertaining to the applicant:

- 4 (A) Name.
 5 (B) Residence address.
 6 (C) Business address.

7 (2) The following information pertaining to any individual
 8 described in section 12(b)(1) of this chapter:

- 9 (A) Name.
 10 (B) Residence address.
 11 (C) Business address.
 12 (D) Whether the person:

- 13 (i) is, at the time of the application, **named in an**
 14 **information or** under indictment for a felony under the laws
 15 of Indiana or any other jurisdiction; or
 16 (ii) has been convicted of or pleaded guilty or nolo
 17 contendere to a felony under the laws of Indiana or any other
 18 jurisdiction.

19 (3) The address where the applicant's office or offices will be
 20 located. If any business, other than the business of cashing checks
 21 under this chapter, will be conducted by the applicant or another
 22 person at any of the locations identified under this subdivision,
 23 the applicant shall indicate for each location at which another
 24 business will be conducted:

- 25 (A) the nature of the other business;
 26 (B) the name under which the other business operates;
 27 (C) the address of the principal office of the other business;
 28 (D) the name and address of the business's resident agent in
 29 Indiana; and
 30 (E) any other information that the director may require.

31 (4) If the department of state revenue notifies the department that
 32 a person is on the most recent tax warrant list, the department
 33 shall not issue or renew the person's license until:

- 34 (A) the person provides to the department a statement from the
 35 department of state revenue that the person's tax warrant has
 36 been satisfied; or
 37 (B) the department receives a notice from the commissioner of
 38 the department of state revenue under IC 6-8.1-8-2(k).

39 (5) Such other data, financial statements, and pertinent
 40 information as the director may require.

41 (c) The application shall be filed with a nonrefundable fee fixed by
 42 the department under IC 28-11-3-5.

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1 SECTION 57. IC 28-11-4-3, AS AMENDED BY P.L.35-2010,
 2 SECTION 198, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) If the director determines that
 4 a current or former director, officer, or employee of a financial
 5 institution has:

6 (1) committed a violation of a statute, a rule, a final cease and
 7 desist order, any condition imposed in writing by the director in
 8 connection with the grant of any application or other request by
 9 the financial institution, or any written agreement between the
 10 financial institution and the director or the department;

11 (2) engaged or participated in an unsafe or unsound practice in
 12 connection with the financial institution;

13 (3) committed or engaged in an act, an omission, or a practice that
 14 constitutes a breach of fiduciary duty as director, officer, or
 15 employee; or

16 (4) been convicted of, has pleaded guilty or nolo contendere to, or
 17 is **named in an information or** under indictment for, a felony
 18 involving fraud, deceit, or misrepresentation under the laws of
 19 Indiana, or any other jurisdiction;

20 the director, subject to subsection (b), may issue and serve upon the
 21 officer, director, or employee a notice of the director's intent to issue an
 22 order removing the person from the person's office or employment, an
 23 order prohibiting any participation by the person in the conduct of the
 24 affairs of any financial institution, or an order both removing the person
 25 and prohibiting the person's participation.

26 (b) A violation, practice, or breach specified in subdivision (a) is
 27 subject to the authority of the director under subsection (a) if the
 28 director finds any of the following:

29 (1) By reason of the violation, practice, or breach, the financial
 30 institution has suffered or will probably suffer substantial
 31 financial loss or other damage.

32 (2) The interests of the financial institution's depositors could be
 33 seriously prejudiced by reason of the violation, practice, or breach
 34 of fiduciary duty.

35 (3) The violation, practice, or breach involves personal dishonesty
 36 on the part of the officer, director, or employee involved.

37 (4) The violation, practice, or breach demonstrates a willful or
 38 continuing disregard by the officer, director, or employee for the
 39 safety and soundness of the financial institution.

40 (c) A person who:

41 (1) is **named in an information or** under indictment for;

42 (2) has been convicted of; or

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1 (3) has pleaded guilty or nolo contendere to;
 2 a felony involving fraud, deceit, or misrepresentation under the laws of
 3 Indiana or any other jurisdiction may not serve as a director, an officer,
 4 or an employee of a financial institution, or serve in any similar
 5 capacity, unless the person obtains the written consent of the director.

6 (d) A financial institution that willfully permits a person to serve the
 7 financial institution in violation of subsection (b) or (c) is subject to a
 8 civil penalty of five hundred dollars (\$500) for each day the violation
 9 continues. A civil penalty paid under this subsection must be deposited
 10 into the financial institutions fund established by IC 28-11-2-9.

11 SECTION 58. IC 29-3-2-0.2, AS ADDED BY P.L.220-2011,
 12 SECTION 481, IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2012]: Sec. 0.2. (a) As used in this section,
 14 "affected statutes" refers to the following:

- 15 (1) IC 16-8-12-7 (repealed, now codified at IC 16-36-1-8).
- 16 (2) IC 29-1-7.5-2.
- 17 (3) IC 33-16-2-2 (repealed, now codified at IC 33-42-2-2).
- 18 (4) IC 33-19-3-2 (repealed, now codified at IC 33-37-3-2).
- 19 (5) IC 35-34-2-3 (**repealed**).
- 20 (6) IC 35-37-1-5.

21 (b) This article and the amendments made by P.L.169-1988 to the
 22 affected statutes apply to guardianships in existence on June 30, 1989,
 23 except to the extent that application of this article and the amendments
 24 made by P.L.169-1988 to the affected statutes would contravene any
 25 vested or contractual rights in effect on June 30, 1989, in which case
 26 the law in effect before July 1, 1989, prevails.

27 SECTION 59. IC 31-30-3-11 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. The prosecuting
 29 attorney shall file a copy of the waiver order with the court to which the
 30 child has been waived when the prosecuting attorney files the
 31 ~~indictment~~ or information.

32 SECTION 60. IC 31-33-18-1.5, AS AMENDED BY P.L.162-2011,
 33 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2012]: Sec. 1.5. (a) This section applies to records held by:

- 35 (1) a county office;
- 36 (2) the department;
- 37 (3) a local child fatality review team established under
 38 IC 31-33-24;
- 39 (4) the statewide child fatality review committee established
 40 under IC 31-33-25; or
- 41 (5) the department of child services ombudsman established by
 42 IC 4-13-19-3;

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1 regarding a child whose death or near fatality may have been the result
2 of abuse, abandonment, or neglect.

3 (b) For purposes of subsection (a), a child's death or near fatality
4 may have been the result of abuse, abandonment, or neglect if:

5 (1) an entity described in subsection (a) determines that the child's
6 death or near fatality is the result of abuse, abandonment, or
7 neglect; or

8 (2) a prosecuting attorney files:

9 (A) an ~~indictment~~ or information; or

10 (B) a complaint alleging the commission of a delinquent act;
11 that, if proven, would cause a reasonable person to believe that
12 the child's death or near fatality may have been the result of
13 abuse, abandonment, or neglect.

14 Upon the request of any person, or upon its own motion, the court
15 exercising juvenile jurisdiction in the county in which the child's death
16 or near fatality occurred shall determine whether the allegations
17 contained in the ~~indictment~~, information or complaint described in
18 subdivision (2), if proven, would cause a reasonable person to believe
19 that the child's death or near fatality may have been the result of abuse,
20 abandonment, or neglect.

21 (c) If the juvenile court finds that the child's death or near fatality
22 was the result of abuse, abandonment, or neglect, the court shall make
23 written findings and provide a copy of the findings and the ~~indictment~~;
24 information or complaint described under subsection (b)(2) to the
25 department.

26 (d) As used in this section:

27 (1) "case" means:

28 (A) any intake report generated by the department;

29 (B) any investigation or assessment conducted by the
30 department; or

31 (C) ongoing involvement between the department and a child
32 or family that is the result of:

33 (i) a program of informal adjustment; or

34 (ii) a child in need of services action;

35 for which related records and documents have not been expunged
36 as required by law or by a court at the time the department is
37 notified of a fatality or near fatality;

38 (2) "contact" means in person communication about a case in
39 which:

40 (A) the child who is the victim of a fatality or near fatality is
41 alleged to be a victim; or

42 (B) the perpetrator of the fatality or near fatality is alleged to

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- 1 be the perpetrator;
- 2 (3) "identifying information" means information that identifies an
3 individual, including an individual's:
- 4 (A) name, address, date of birth, occupation, place of
5 employment, and telephone number;
- 6 (B) employer identification number, mother's maiden name,
7 Social Security number, or any identification number issued by
8 a governmental entity;
- 9 (C) unique biometric data, including the individual's
10 fingerprint, voice print, or retina or iris image;
- 11 (D) unique electronic identification number, address, or
12 routing code;
- 13 (E) telecommunication identifying information; or
- 14 (F) telecommunication access device, including a card, a plate,
15 a code, an account number, a personal identification number,
16 an electronic serial number, a mobile identification number, or
17 another telecommunications service or device or means of
18 account access; and
- 19 (4) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.
- 20 (e) Unless information in a record is otherwise confidential under
21 state or federal law, a record described in subsection (a) that has been
22 redacted in accordance with this section is not confidential and may be
23 disclosed to any person who requests the record. The person requesting
24 the record may be required to pay the reasonable expenses of copying
25 the record.
- 26 (f) When a person requests a record described in subsection (a), the
27 entity having control of the record shall immediately transmit a copy of
28 the record to the court exercising juvenile jurisdiction in the county in
29 which the death or near fatality of the child occurred. However, if the
30 court requests that the entity having control of a record transmit the
31 original record, the entity shall transmit the original record.
- 32 (g) Upon receipt of the record described in subsection (a), the court
33 shall, within thirty (30) days, redact the record to exclude:
- 34 (1) identifying information described in subsection (d)(3)(B)
35 through (d)(3)(F) of a person; and
- 36 (2) all identifying information of a child less than eighteen (18)
37 years of age.
- 38 (h) The court shall disclose the record redacted in accordance with
39 subsection (g) to any person who requests the record, if the person has
40 paid:
- 41 (1) to the entity having control of the record, the reasonable
42 expenses of copying under IC 5-14-3-8; and

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- 1 (2) to the court, the reasonable expenses of copying the record.
- 2 (i) The data and information in a record disclosed under this section
- 3 must include the following:
- 4 (1) A summary of the report of abuse or neglect and a factual
- 5 description of the contents of the report.
- 6 (2) The date of birth and gender of the child.
- 7 (3) The cause of the fatality or near fatality, if the cause has been
- 8 determined.
- 9 (4) Whether the department had any contact with the child or the
- 10 perpetrator before the fatality or near fatality, and, if the
- 11 department had contact, the following:
- 12 (A) The frequency of the contact with the child or the
- 13 perpetrator before the fatality or near fatality and the date on
- 14 which the last contact occurred before the fatality or near
- 15 fatality.
- 16 (B) A summary of the status of the child's case at the time of
- 17 the fatality or near fatality, including:
- 18 (i) whether the child's case was closed by the department
- 19 before the fatality or near fatality; and
- 20 (ii) if the child's case was closed as described under item (i),
- 21 the date of closure and the reasons that the case was closed.
- 22 (j) The court's determination under subsection (g) that certain
- 23 identifying information or other information is not relevant to
- 24 establishing the facts and circumstances leading to the death or near
- 25 fatality of a child is not admissible in a criminal proceeding or civil
- 26 action.
- 27 SECTION 61. IC 31-33-18-2, AS AMENDED BY
- 28 P.L.182-2009(ss), SECTION 380, IS AMENDED TO READ AS
- 29 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The reports and other
- 30 material described in section 1(a) of this chapter and the unredacted
- 31 reports and other material described in section 1(b) of this chapter shall
- 32 be made available only to the following:
- 33 (1) Persons authorized by this article.
- 34 (2) A legally mandated public or private child protective agency
- 35 investigating a report of child abuse or neglect or treating a child
- 36 or family that is the subject of a report or record.
- 37 (3) A police or other law enforcement agency, prosecuting
- 38 attorney, or coroner in the case of the death of a child who is
- 39 investigating a report of a child who may be a victim of child
- 40 abuse or neglect.
- 41 (4) A physician who has before the physician a child whom the
- 42 physician reasonably suspects may be a victim of child abuse or

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neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

~~(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.~~

~~(11)~~ **(10)** An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

~~(12)~~ **(11)** A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

~~(13)~~ **(12)** The community child protection team appointed under

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1 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to
 2 enable the team to carry out the team's purpose under IC 31-33-3.
 3 ~~(14)~~ **(13)** A person about whom a report has been made, with
 4 protection for the identity of:
 5 (A) any person reporting known or suspected child abuse or
 6 neglect; and
 7 (B) any other person if the person or agency making the
 8 information available finds that disclosure of the information
 9 would be likely to endanger the life or safety of the person.
 10 ~~(15)~~ **(14)** An employee of the department, a caseworker, or a
 11 juvenile probation officer conducting a criminal history check
 12 under IC 31-26-5, IC 31-34, or IC 31-37 to determine the
 13 appropriateness of an out-of-home placement for a:
 14 (A) child at imminent risk of placement;
 15 (B) child in need of services; or
 16 (C) delinquent child.
 17 The results of a criminal history check conducted under this
 18 subdivision must be disclosed to a court determining the
 19 placement of a child described in clauses (A) through (C).
 20 ~~(16)~~ **(15)** A local child fatality review team established under
 21 IC 31-33-24-6.
 22 ~~(17)~~ **(16)** The statewide child fatality review committee
 23 established by IC 31-33-25-6.
 24 ~~(18)~~ **(17)** The department.
 25 ~~(19)~~ **(18)** The division of family resources, if the investigation
 26 report:
 27 (A) is classified as substantiated; and
 28 (B) concerns:
 29 (i) an applicant for a license to operate;
 30 (ii) a person licensed to operate;
 31 (iii) an employee of; or
 32 (iv) a volunteer providing services at;
 33 a child care center licensed under IC 12-17.2-4 or a child care
 34 home licensed under IC 12-17.2-5.
 35 ~~(20)~~ **(19)** A citizen review panel established under
 36 IC 31-25-2-20.4.
 37 ~~(21)~~ **(20)** The department of child services ombudsman
 38 established by IC 4-13-19-3.
 39 SECTION 62. IC 31-34-7-4 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. A person who is
 41 accused of committing child abuse or neglect is entitled under
 42 ~~IC 31-33-18-2(14)~~ **IC 31-33-18-2(13)** to access to a report relevant to

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1 an alleged accusation.

2 SECTION 63. IC 33-28-5-12, AS AMENDED BY P.L.118-2007,
3 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 12. (a) Under the supervision of the supervising
5 judge, the jury administrator shall prepare a written plan for the
6 selection of ~~grand and~~ petit jurors in the county. The plan must be
7 designed to achieve the objectives of this chapter. The plan must
8 specify the following:

9 (1) Source of names for the master list.

10 (2) Form of the master list.

11 (3) Method of selecting names from the master list.

12 (4) Methods for maintaining records of names drawn, jurors
13 qualified, and jurors' deferrals and reasons to be deferred,
14 including specifying any necessary forms.

15 (5) Method of drawing names of qualified jurors for prospective
16 service.

17 (6) Procedures to be followed by prospective jurors in requesting
18 to be deferred from jury service.

19 (7) Number of petit jurors that constitutes a panel for civil and
20 criminal cases or a description of the uniform manner in which
21 this determination is made.

22 ~~(8) That upon receipt of an order for a grand jury, the jury~~
23 ~~administrator shall publicly, and in accordance with section 20 of~~
24 ~~this chapter, draw at random from the jury pool twelve (12)~~
25 ~~qualified jurors and direct them to appear before the supervising~~
26 ~~judge. The supervising judge shall randomly select six (6) jurors~~
27 ~~after:~~

28 ~~(A) explaining to the twelve (12) prospective jurors the duties~~
29 ~~and responsibilities of a grand jury; and~~

30 ~~(B) deferring jurors under section 18 of this chapter.~~

31 (b) The plan must be submitted by the jury administrator to the
32 judges of the courts. The judges of the courts shall approve or direct
33 modification of the plan not later than sixty (60) days after its receipt.
34 If the plan is found not to comply, the court shall order the jury
35 administrator to make the necessary changes to bring the plan into
36 compliance. The approved plan must go into effect not later than sixty
37 (60) days after the plan is approved by the judges of the courts.

38 (c) The plan may be modified at any time according to the
39 procedure specified under this chapter.

40 (d) The plan is a public document on file in the office of the jury
41 administrator and must be available for inspection at all reasonable
42 times.



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1 SECTION 64. IC 33-28-5-14, AS AMENDED BY P.L.118-2007,
 2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2012]: Sec. 14. (a) Names must be drawn for the jury pool at
 4 least one (1) time each year based on a calendar year commencing in
 5 January. Drawing of names for the first jury pool for a calendar year
 6 must be held during the last quarter of the calendar year preceding the
 7 calendar year for which names are being drawn, at a time and place
 8 prescribed by the jury administrator.

9 (b) The number of names required to be drawn from the jury pool
 10 for jury service must be determined by the jury administrator after
 11 consultation with all judges of the courts who may conduct jury trials.
 12 ~~taking into consideration the number of jurors required for the grand~~
 13 ~~jury.~~

14 (c) The frequency of the drawing of names to be summoned for jury
 15 service may be increased by the jury administrator if the jury
 16 administrator determines it necessary for purposes of fairness,
 17 efficiency, or to ensure compliance with this chapter.

18 (d) Names to be summoned for jury service must be drawn
 19 randomly under section 20 of this chapter.

20 (e) Except by order of the supervising judge, names drawn from the
 21 jury pool to be summoned for jury service may not be returned to the
 22 jury pool until all nonexempt persons in the jury pool have been called.

23 (f) This section shall be construed liberally, to the effect that

24 ~~(1) an indictment may not be quashed; and~~

25 ~~(2) a trial, a judgment, an order, or a proceeding may not be~~
 26 ~~reversed or held invalid~~

27 on the ground that the terms of this section have not been followed,
 28 unless it appears that the noncompliance was either in bad faith or was
 29 objected to promptly upon discovery and was probably harmful to the
 30 substantial rights of the objecting party.

31 SECTION 65. IC 33-28-5-18, AS AMENDED BY P.L.157-2009,
 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2012]: Sec. 18. (a) The supervising judge or the jury
 34 administrator shall determine whether a prospective juror is qualified
 35 to serve or, if disabled but otherwise qualified, whether the prospective
 36 juror could serve with reasonable accommodation. A person who is not
 37 eligible for jury service may not serve. The facts supporting juror
 38 disqualification or exemption must be recorded under oath or
 39 affirmation. A disqualification or exemption is not authorized unless
 40 supported by the facts. The jury administrator shall make a record of all
 41 disqualifications.

42 (b) A prospective juror is disqualified to serve on a jury if any of the

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- 1 following conditions exist:
- 2 (1) The person is not a citizen of the United States, at least
- 3 eighteen (18) years of age, and a resident of the county.
- 4 (2) The person is unable to read, speak, and understand the
- 5 English language with a degree of proficiency sufficient to fill out
- 6 satisfactorily a juror qualification form.
- 7 (3) The person is incapable of rendering satisfactory jury service
- 8 due to physical or mental disability. However, a person claiming
- 9 this disqualification may be required to submit a physician's or
- 10 authorized Christian Science practitioner's certificate confirming
- 11 the disability, and the certifying physician or practitioner is then
- 12 subject to inquiry by the court at the court's discretion.
- 13 (4) A guardian has been appointed for the person under IC 29-3
- 14 because the person has a mental incapacity.
- 15 (5) The person has had the right to vote revoked by reason of a
- 16 felony conviction and the right has not been restored.
- 17 (c) A person scheduled to appear for jury service has the right to
- 18 defer the date of the person's initial appearance for jury service one (1)
- 19 time upon a showing of hardship, extreme inconvenience, or necessity.
- 20 The court shall grant a prospective juror's request for deferral if the
- 21 following conditions are met:
- 22 (1) The prospective juror has not previously been granted a
- 23 deferral.
- 24 (2) The prospective juror requests a deferral by contacting the
- 25 jury administrator:
- 26 (A) by telephone;
- 27 (B) by electronic mail;
- 28 (C) in writing; or
- 29 (D) in person.
- 30 (3) The prospective juror selects another date on which the
- 31 prospective juror will appear for jury service that is:
- 32 (A) not more than one (1) year after the date upon which the
- 33 prospective juror was originally scheduled to appear; and
- 34 (B) a date when the court will be in session.
- 35 (4) The court determines that the prospective juror has
- 36 demonstrated that a deferral is necessary due to:
- 37 (A) hardship;
- 38 (B) extreme inconvenience; or
- 39 (C) necessity.
- 40 (d) A prospective juror who is at least seventy-five (75) years of age
- 41 may be exempted from jury service if the prospective juror notifies the
- 42 jury administrator that the prospective juror is at least seventy-five (75)

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1 years of age and wishes to be exempted from jury service.

2 (e) A person may not serve as a petit juror in any county if the
3 person served as a petit juror in the same county within the previous
4 three hundred sixty-five (365) days in a case that resulted in a verdict.
5 The fact that a person's selection as a juror would violate this
6 subsection is sufficient cause for challenge.

7 ~~(f) A grand jury;~~ A petit jury or an individual juror drawn for service
8 in one (1) court may serve in another court of the county, in accordance
9 with orders entered on the record in each of the courts.

10 (g) The same petit jurors may be used in civil cases and in criminal
11 cases.

12 (h) A person may not be excluded from jury service on account of
13 race, color, religion, sex, national origin, or economic status.

14 SECTION 66. IC 33-28-5-21, AS AMENDED BY P.L.118-2007,
15 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2012]: Sec. 21. (a) Not later than seven (7) days after a
17 moving party discovers or by the exercise of diligence could have
18 discovered grounds, but before a petit jury is sworn to try a case, a
19 party may:

20 (1) in a civil case move to stay the proceedings; and

21 (2) in a criminal case move:

22 ~~(A) to dismiss the indictment (if the case has been brought by~~
23 ~~indictment);~~

24 ~~(B) (A) to stay the proceedings; or~~

25 ~~(C) (B) for other appropriate relief;~~

26 on the ground of substantial failure to comply with this chapter in
27 selecting the prospective grand jurors **(before the abolishment of the**
28 **grand jury)** or petit jurors.

29 (b) Upon a motion filed under subsection (a) containing a sworn
30 statement of facts that, if true, would constitute a substantial failure to
31 comply with this chapter, the moving party may present evidence in
32 support of the motion.

33 (c) If the court determines that in selecting either a grand jury
34 **(before the abolishment of the grand jury)** or a petit jury there has
35 been a substantial failure to comply with this chapter, the court:

36 (1) shall stay the proceedings pending the selection of the jury in
37 conformity with this chapter; and

38 (2) may ~~dismiss an indictment (if the case was brought by~~
39 ~~indictment) or grant other appropriate relief.~~

40 (d) The procedures required by this section are the exclusive means
41 by which the state, a person accused of an offense, or a party in a civil
42 case may challenge a jury on the ground that the jury was not selected

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1 in conformity with this chapter.
 2 (e) The parties to the case may inspect, reproduce, and copy the
 3 records or papers of the jury administrator at all reasonable times
 4 during the preparation and pendency of a motion under subsection (a).
 5 SECTION 67. IC 33-28-5-23, AS AMENDED BY P.L.118-2007,
 6 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2012]: Sec. 23. (a) A person who appears for service as a petit
 8 ~~or grand~~ juror serves until the conclusion of the first trial in which the
 9 juror is sworn, regardless of the length of the trial or the manner in
 10 which the trial is disposed. A person who appears for service but is not
 11 selected and sworn as a juror completes the person's service when jury
 12 selection is complete.
 13 (b) Except by order of the supervising judge, a person who:
 14 (1) serves as a juror under this chapter; or
 15 (2) serves until jury selection is complete but is not chosen to
 16 serve as a juror;
 17 may not be selected for another jury panel until all nonexempt persons
 18 in the jury pool have been called for jury duty.
 19 SECTION 68. IC 33-29-1-8, AS AMENDED BY P.L.118-2007,
 20 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2012]: Sec. 8. ~~(a)~~ A jury in the standard superior court shall
 22 be selected as provided in IC 33-28-5.
 23 ~~(b) A grand jury selected for the circuit court of the county in which~~
 24 ~~the standard superior court is located shall serve as the grand jury for~~
 25 ~~the standard superior court.~~
 26 SECTION 69. IC 33-37-2-2, AS AMENDED BY P.L.156-2007,
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2012]: Sec. 2. (a) Costs in a criminal action are not a part of
 29 the sentence and may be suspended only under section 3 of this
 30 chapter. However, if:
 31 (1) two (2) or more charges against a person are joined for trial;
 32 and
 33 (2) the person is convicted of two (2) or more offenses in the trial;
 34 the court may waive the person's liability for costs for all but one (1) of
 35 the offenses.
 36 (b) If a person is acquitted or an ~~indictment~~ ~~or~~ information is
 37 dismissed by order of the court, the person is not liable for costs.
 38 SECTION 70. IC 33-37-10-1, AS AMENDED BY P.L.118-2007,
 39 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2012]: Sec. 1. (a) A juror of a circuit, superior, county, or
 41 probate court ~~or a member of a grand jury~~ is entitled to the sum of the
 42 following:

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1 (1) Except as provided in subsection (f), an amount for mileage
2 at the mileage rate paid to state officers and employees for each
3 mile necessarily traveled to and from the court.

4 (2) Payment at the rate of:

5 (A) fifteen dollars (\$15) for each day the juror is in actual
6 attendance in court until the jury is impaneled; and

7 (B) forty dollars (\$40) for each day the juror is in actual
8 attendance after impaneling and until the jury is discharged.

9 (b) A county fiscal body may adopt an ordinance to pay from county
10 funds a supplemental fee in addition to the fees prescribed by
11 subsection (a)(2).

12 (c) A juror of a city or town court is entitled to the sum of the
13 following:

14 (1) Except as provided in subsection (f), an amount for mileage
15 at the mileage rate paid to state officers and employees for each
16 mile necessarily traveled to and from the court.

17 (2) Fifteen dollars (\$15) per day while the juror is in actual
18 attendance.

19 (d) A city or town fiscal body may adopt an ordinance to pay from
20 city or town funds a supplemental fee in addition to the fee prescribed
21 by subsection (c)(2).

22 (e) For purposes of this section, a prospective juror who is
23 summoned for jury duty and who reports to the summoning court on
24 the day specified in the summons is in actual attendance on that day.

25 (f) A county, city, or town fiscal body may adopt an ordinance
26 providing for the payment by the county, city, or town of the parking
27 fees incurred by jurors of circuit, superior, county, and probate courts.
28 ~~and members of grand juries.~~ If a county, city, or town fiscal body
29 adopts an ordinance under this subsection, the county, city, or town
30 may pay the parking fees incurred by a juror of a circuit, superior,
31 county, or probate court ~~or a member of a grand jury~~ instead of paying
32 the juror ~~or grand jury member~~ an amount for mileage at the rate
33 provided in subsection (a)(1) or (c)(1).

34 SECTION 71. IC 33-37-10-2 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) A witness in a
36 criminal action may receive a fee if the witness:

37 (1) is summoned by the state;

38 (2) is named on the ~~indictment~~ or information; and

39 (3) testifies under oath to a material fact in aid of the prosecution.

40 (b) A fee paid under subsection (a) is the sum of the following:

41 (1) An amount for mileage at the mileage rate paid to state
42 officers for each mile necessarily traveled to and from the court.

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- 1 (2) For each day of attendance in court equal to:
 2 (A) fifteen dollars (\$15) for witnesses subpoenaed under
 3 IC 35-37-5-4; or
 4 (B) five dollars (\$5) for all other witnesses.
- 5 SECTION 72. IC 33-39-1-6, AS AMENDED BY P.L.119-2007,
 6 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2012]: Sec. 6. (a) Special prosecutors may be appointed under
 8 this section or in accordance with IC 4-2-7-7.
- 9 (b) A circuit or superior court judge:
 10 (1) shall appoint a special prosecutor if:
 11 (A) any person other than the prosecuting attorney or the
 12 prosecuting attorney's deputy files a verified petition
 13 requesting the appointment of a special prosecutor; and
 14 (B) the prosecuting attorney agrees that a special prosecutor is
 15 needed;
 16 (2) may appoint a special prosecutor if:
 17 (A) a person files a verified petition requesting the
 18 appointment of a special prosecutor; and
 19 (B) the court, after:
 20 (i) notice is given to the prosecuting attorney; and
 21 (ii) an evidentiary hearing is conducted at which the
 22 prosecuting attorney is given an opportunity to be heard;
 23 finds by clear and convincing evidence that the appointment
 24 is necessary to avoid an actual conflict of interest or there is
 25 probable cause to believe that the ~~prosecutor~~ **prosecuting**
 26 **attorney** has committed a crime;
 27 (3) may appoint a special prosecutor if:
 28 (A) the prosecuting attorney files a petition requesting the
 29 court to appoint a special prosecutor; and
 30 (B) the court finds that the appointment is necessary to avoid
 31 the appearance of impropriety;
 32 (4) may appoint a special prosecutor if:
 33 (A) an elected public official, who is a defendant in a criminal
 34 proceeding, files a verified petition requesting a special
 35 prosecutor within ten (10) days after the date of the initial
 36 hearing; and
 37 (B) the court finds that the appointment of a special prosecutor
 38 is in the best interests of justice; and
 39 (5) shall appoint a special prosecutor if:
 40 (A) a previously appointed special prosecutor:
 41 (i) files a motion to withdraw as special prosecutor; or
 42 (ii) has become incapable of continuing to represent the

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- 1 interests of the state; and
 2 (B) the court finds that the facts that established the basis for
 3 the initial appointment of a special prosecutor still exist.
 4 The elected prosecuting attorney of the appointing jurisdiction
 5 shall receive notice of all pleadings filed and orders issued under
 6 this subdivision.
- 7 (c) Each person appointed to serve as a special prosecutor:
 8 (1) must consent to the appointment; and
 9 (2) must be:
 10 (A) the prosecuting attorney or a deputy prosecuting attorney
 11 in a county other than the county in which the person is to
 12 serve as special prosecutor; or
 13 (B) except as provided in subsection (d), a senior prosecuting
 14 attorney.
- 15 (d) A senior prosecuting attorney may be appointed in the county in
 16 which the senior prosecuting attorney previously served if the court
 17 finds that an appointment under this subsection would not create the
 18 appearance of impropriety.
- 19 (e) A person appointed to serve as a special prosecutor has the same
 20 powers as the prosecuting attorney of the county. However, the
 21 appointing judge shall limit scope of the special prosecutor's duties to
 22 include only the investigation or prosecution of a particular case. ~~or~~
 23 ~~particular grand jury investigation.~~
- 24 (f) The court shall establish the length of the special prosecutor's
 25 term. If the target of an investigation by the special prosecutor is a
 26 public servant (as defined in IC 35-41-1-24), the court shall order the
 27 special prosecutor to file a report of the investigation with the court at
 28 the conclusion of the investigation. The report is a public record.
- 29 (g) If the special prosecutor is not regularly employed as a full-time
 30 prosecuting attorney or full-time deputy prosecuting attorney, the
 31 compensation for the special prosecutor's services:
 32 (1) shall be paid to the special prosecutor from the unappropriated
 33 funds of the appointing county; and
 34 (2) may not exceed:
 35 (A) an hourly rate based upon the regular salary of a full-time
 36 prosecuting attorney of the appointing circuit;
 37 (B) travel expenses and reasonable accommodation expenses
 38 actually incurred; and
 39 (C) other reasonable expenses actually incurred, including the
 40 costs of investigation, discovery, and secretarial work, if:
 41 (i) before incurring the other reasonable expenses described
 42 in this clause, the special prosecutor submits an application

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1 to the court to receive the other reasonable expenses; and

2 (ii) the court approves the expenses.

3 The amount of compensation a special prosecutor receives for services
4 performed during a calendar day under subdivision (2)(A) may not
5 exceed the amount of compensation a full-time prosecuting attorney
6 would receive in salary for the calendar day.

7 (h) If the special prosecutor is regularly employed as a full-time
8 prosecuting attorney or deputy prosecuting attorney, the compensation
9 for the special prosecutor's services:

10 (1) shall be paid out of the appointing county's unappropriated
11 funds to the treasurer of the county in which the special
12 prosecutor regularly serves; and

13 (2) must include a per diem equal to the regular salary of a
14 full-time prosecuting attorney of the appointing circuit, travel
15 expenses, and reasonable accommodation expenses actually
16 incurred.

17 (i) The combination of:

18 (1) the compensation paid to a senior prosecuting attorney under
19 this chapter; and

20 (2) retirement benefits that the person appointed as a senior
21 prosecuting attorney is receiving or entitled to receive;

22 may not exceed the minimum compensation to which a full-time
23 prosecuting attorney is entitled under IC 33-39-6-5.

24 (j) A senior prosecuting attorney appointed under this chapter may
25 not be compensated as senior prosecuting attorney for more than one
26 hundred (100) calendar days in total during a calendar year if the senior
27 prosecuting attorney receives retirement benefits during the calendar
28 year. However, if the senior prosecuting attorney does not receive
29 retirement benefits during a calendar year, the senior prosecuting
30 attorney may be compensated as a senior prosecuting attorney for not
31 more than two hundred (200) calendar days in total during the calendar
32 year.

33 SECTION 73. IC 33-40-2-1 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Upon a
35 determination by the judge of any court having criminal jurisdiction
36 that:

37 (1) the court is unable within a reasonable time to appoint an
38 available attorney, public defender or otherwise, who is
39 competent in the practice of law in criminal cases as legal counsel
40 for any person charged in the court with a criminal offense and
41 who does not have sufficient means to employ an attorney; or

42 (2) in the interest of justice an attorney from another judicial

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1 circuit, not regularly practicing in the court, should be appointed
 2 to defend the indigent defendant or appeal the defendant's case,
 3 but the judge is unable within a reasonable time to provide for the
 4 direct appointment of an attorney;

5 the judge may make written request to the state public defender to
 6 provide a qualified attorney for the defense of the indigent person.

7 (b) The judge shall attach to the written request a copy of the
 8 affidavit or ~~indictment~~, **information** and state in the request the
 9 amount of the applicable minimum fee to be paid for the legal services
 10 of defense counsel in the case, subject to:

11 (1) any additional amount reasonable under all the circumstances
 12 of the case, to be determined and approved by the judge upon the
 13 final determination of the case; and

14 (2) reasonable partial allowances as may be approved and ordered
 15 by the judge pending final determination.

16 SECTION 74. IC 33-40-7-10 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) This chapter
 18 does not prevent a court from appointing counsel other than counsel
 19 provided for under the board's plan for providing defense services to an
 20 indigent person when the interests of justice require. A court may also
 21 appoint counsel to assist counsel provided for under the board's plan as
 22 co-counsel when the interests of justice require. Expenditures by a
 23 county for defense services not provided under the county public
 24 defender board's plan are not subject to reimbursement from the public
 25 defense fund under IC 33-40-6.

26 (b) A judge of a court having criminal jurisdiction may make a
 27 written request to the state public defender to provide a qualified
 28 attorney for the defense of a person charged in the court with a criminal
 29 offense and eligible for representation at public expense if the judge
 30 determines:

31 (1) that an attorney provided under the county public defender
 32 board's plan is not qualified or available to represent the person;
 33 or

34 (2) that in the interests of justice an attorney other than the
 35 attorney provided for by the county defender board's plan should
 36 be appointed.

37 The judge shall attach to the request a copy of the information. ~~or~~
 38 ~~indictment~~. Expenditures for representation under this subsection shall
 39 be paid by the county according to a fee schedule approved by the
 40 commission. These expenditures are eligible for reimbursement from
 41 the public defense fund.

42 SECTION 75. IC 34-25.5-5-1 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Except as
 2 provided in subsection (b), the court or judge shall not inquire into the
 3 legality of any judgment or process by which the party is in custody, or
 4 discharge the party when the term of commitment has not expired in
 5 any of the following cases:

6 (1) Upon process issued by any court or judge of the United States
 7 where the court or judge has exclusive jurisdiction.

8 (2) Upon any process issued on a final judgment of a court of
 9 competent jurisdiction.

10 (3) For any contempt of any court, officer, or body with authority
 11 to commit.

12 (4) Upon a warrant issued from the circuit court upon an
 13 indictment or information.

14 (b) Subsection (a)(1), (a)(2), and (a)(3) do not include an order of
 15 commitment, as for contempt, upon proceedings to enforce the remedy
 16 of a party.

17 SECTION 76. IC 35-33-2-1 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. ~~(a) Except as~~
 19 ~~provided in chapter 4 of this article; whenever an indictment is filed~~
 20 ~~and the defendant has not been arrested or otherwise brought within the~~
 21 ~~custody of the court, the court, without making a determination of~~
 22 ~~probable cause, shall issue a warrant for the arrest of the defendant.~~

23 ~~(b) (a)~~ Whenever an information is filed and the defendant has not
 24 been arrested or otherwise brought within the custody of the court, the
 25 court shall issue a warrant for the arrest of the defendant after first
 26 determining that probable cause exists for the arrest.

27 ~~(c) (b)~~ No warrant for arrest of a person may be issued until
 28 ~~(1) an indictment has been found charging him with the~~
 29 ~~commission of an offense; or~~
 30 ~~(2) a judge has determined that probable cause exists that the~~
 31 ~~person committed a crime and an information has been filed~~
 32 ~~charging him the person with a crime.~~

33 SECTION 77. IC 35-33-2-2, AS AMENDED BY P.L.2-2005,
 34 SECTION 115, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) A warrant of arrest shall:

36 (1) be in writing;

37 (2) specify the name of the person to be arrested, or if ~~his the~~
 38 ~~person's~~ name is unknown, shall designate such person by any
 39 name or description by which ~~he the person~~ can be identified
 40 with reasonable certainty;

41 (3) set forth the nature of the offense for which the warrant is
 42 issued;

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- 1 (4) state the date and county of issuance;
- 2 (5) be signed by the clerk or the judge of the court with the title
- 3 of ~~his~~ **the clerk's or judge's** office;
- 4 (6) command that the person against whom the ~~indictment or~~
- 5 information was filed be arrested and brought before the court
- 6 issuing the warrant, without unnecessary delay;
- 7 (7) specify the amount of bail, if any; and
- 8 (8) be directed to the sheriff of the county.

9 (b) An arrest warrant may be in substantially the following form:
 10 TO: _____

11 You are hereby commanded to arrest _____ forthwith, and
 12 hold that person to bail in the sum of _____ dollars, to answer in the
 13 _____ Court of _____ County, in the State of Indiana, an
 14 information ~~or indictment~~ for _____.

15 And for want of bail commit ~~him~~ **the person** to the jail of the
 16 County, and thereafter without unnecessary delay to bring ~~him~~ **the**
 17 **person** before the said court.

18 IN WITNESS WHEREOF, I, _____ (Clerk/Judge) of said
 19 Court, hereto affix the seal thereof, and subscribe my name at
 20 _____ this _____ day of _____ A.D. 20__.

21 _____
 22 Clerk or Judge of the Court

23 SECTION 78. IC 35-33-2-3, AS AMENDED BY P.L.201-2011,
 24 SECTION 110, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The warrant is issued to the
 26 sheriff of the county where the ~~indictment or~~ information is filed. This
 27 warrant may be served or arrests on it made:

- 28 (1) by any law enforcement officer;
- 29 (2) on any day of the week; and
- 30 (3) at any time of the day or night.

31 (b) A law enforcement officer may break open any outer or inner
 32 door or window in order to execute an arrest warrant, if the officer is
 33 not admitted following an announcement of the officer's authority and
 34 purpose.

35 (c) The accused person shall be delivered to the sheriff of the county
 36 in which the ~~indictment or~~ information was filed, and the sheriff shall
 37 commit the accused person to jail or hold the accused person to bail as
 38 provided in this article.

39 (d) A person or persons whose property is wrongfully damaged or
 40 whose person is wrongfully injured by any law enforcement officer or
 41 officers who wrongfully enter may recover such damage from the
 42 responsible authority and the law enforcement officer or officers as the

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1 court may determine. The action may be filed in the circuit court or
2 superior court in the county where the wrongful entry took place.

3 SECTION 79. IC 35-33-2-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. When an information
5 or indictment has been dismissed, the court shall order the sheriff to
6 make a return on any outstanding arrest warrant or summons issued
7 regarding a charge stating that the charge has been dismissed. The
8 sheriff shall notify any law enforcement officer to whom the arrest
9 warrant or summons has been delivered that it has been revoked.

10 SECTION 80. IC 35-33-4-1, AS AMENDED BY P.L.2-2005,
11 SECTION 116, IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) When an indictment or
13 information is filed against a person charging him the person with a
14 misdemeanor, the court may, in lieu of issuing an arrest warrant under
15 IC 35-33-2, issue a summons. The summons must set forth
16 substantially the nature of the offense, and command the accused
17 person to appear before the court at a stated time and place. However,
18 the date set by the court must be at least seven (7) days after the
19 issuance of the summons. The summons may be served in the same
20 manner as the summons in a civil action.

21 (b) If the person summoned fails, without good cause, to appear as
22 commanded by the summons and the court has determined that there
23 is probable cause to believe that a crime (other than failure to appear)
24 has been committed, the court shall issue a warrant of arrest.

25 (c) If, after issuing a summons, the court:
26 (1) is satisfied that the person will not appear as commanded by
27 the summons; and
28 (2) has determined that there is probable cause that a crime (other
29 than failure to appear) has been committed;

30 it may at once issue a warrant of arrest.

31 (d) The summons may be in substantially the following form:

32 STATE OF INDIANA) IN THE _____ COURT
33)
34 vs.) OF _____ COUNTY
35)
36 _____)
37 Defendant) CAUSE NO. _____
38 SUMMONS
39 THE STATE OF INDIANA TO
40 THE ABOVE NAMED DEFENDANT:
41 YOU ARE HEREBY SUMMONED, to appear before the above
42 designated Court at _____, _____, _____ at _____ .m. on (day)

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at _____ .m. on _____,
Month Day
20__, in respect to the charge of _____
_____.

If you do not so appear, an application may be made for the issuance of a warrant for your arrest.

ISSUED: _____, 20 _____,
in
_____, Indiana

(City or County)
BY THE UNDERSIGNED LAW
ENFORCEMENT OFFICER:

Officer's Signature
I.D. No. _____
Div. Dist. _____
Police Agency _____

COURT APPEARANCE

I promise to appear in court at the time and place designated above, or be subject to arrest.

Signature _____

YOUR SIGNATURE IS NOT AN ADMISSION OF GUILT.

(h) When any law enforcement officer issues a summons and promise to appear, ~~he~~ **the officer** shall:

- (1) promptly file the summons and promise to appear and the certificate of service with the court designated in the summons and promise to appear; and
- (2) provide the prosecuting attorney with a copy thereof.

SECTION 81. IC 35-33-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) When a person is arrested for a crime before a formal charge has been filed, an information ~~or indictment~~ shall be filed or be prepared to be filed at or before the initial hearing, unless the prosecuting attorney has informed the court that there will be no charges filed in the case.

(b) If the prosecuting attorney states that more time is required to evaluate the case and determine whether a charge should be filed, or if it is necessary to transfer the person to another court, then the court shall recess or continue the initial hearing for up to seventy-two (72) hours, excluding intervening Saturdays, Sundays, and legal holidays.

(c) Before recessing the initial hearing and after the ex parte probable cause determination has been made, the court shall inform a defendant charged with a felony of the rights specified in ~~subdivisions~~

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1 (~~1~~), (~~2~~), (~~3~~), (~~4~~), and (~~5~~) of section 5 **5(1) through 5(5)** of this chapter.

2 SECTION 82. IC 35-33-8-3.2, AS AMENDED BY P.L.94-2010,
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 3.2. (a) A court may admit a defendant to bail and
5 impose any of the following conditions to assure the defendant's
6 appearance at any stage of the legal proceedings, or, upon a showing
7 of clear and convincing evidence that the defendant poses a risk of
8 physical danger to another person or the community, to assure the
9 public's physical safety:

10 (1) Require the defendant to:

- 11 (A) execute a bail bond with sufficient solvent sureties;
12 (B) deposit cash or securities in an amount equal to the bail;
13 (C) execute a bond secured by real estate in the county, where
14 thirty-three hundredths (0.33) of the true tax value less
15 encumbrances is at least equal to the amount of the bail;
16 (D) post a real estate bond; or
17 (E) perform any combination of the requirements described in
18 clauses (A) through (D).

19 If the court requires the defendant to deposit cash or cash and
20 another form of security as bail, the court may require the
21 defendant and each person who makes the deposit on behalf of the
22 defendant to execute an agreement that allows the court to retain
23 all or a part of the cash to pay publicly paid costs of
24 representation and fines, costs, fees, and restitution that the court
25 may order the defendant to pay if the defendant is convicted. The
26 defendant must also pay the fee required by subsection (d).

27 (2) Require the defendant to execute:

- 28 (A) a bail bond by depositing cash or securities with the clerk
29 of the court in an amount not less than ten percent (10%) of
30 the bail; and
31 (B) an agreement that allows the court to retain all or a part of
32 the cash or securities to pay fines, costs, fees, and restitution
33 that the court may order the defendant to pay if the defendant
34 is convicted.

35 A portion of the deposit, not to exceed ten percent (10%) of the
36 monetary value of the deposit or fifty dollars (\$50), whichever is
37 the lesser amount, may be retained as an administrative fee. The
38 clerk shall also retain from the deposit under this subdivision
39 fines, costs, fees, and restitution as ordered by the court, publicly
40 paid costs of representation that shall be disposed of in
41 accordance with subsection (b), and the fee required by
42 subsection (d). In the event of the posting of a real estate bond,

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1 the bond shall be used only to insure the presence of the
 2 defendant at any stage of the legal proceedings, but shall not be
 3 foreclosed for the payment of fines, costs, fees, or restitution. The
 4 individual posting bail for the defendant or the defendant
 5 admitted to bail under this subdivision must be notified by the
 6 sheriff, court, or clerk that the defendant's deposit may be
 7 forfeited under section 7 of this chapter or retained under
 8 subsection (b).

9 (3) Impose reasonable restrictions on the activities, movements,
 10 associations, and residence of the defendant during the period of
 11 release.

12 (4) Except as provided in section 3.6 of this chapter, require the
 13 defendant to refrain from any direct or indirect contact with an
 14 individual and, if the defendant has been charged with an offense
 15 under IC 35-46-3, any animal belonging to the individual,
 16 including if the defendant has not been released from lawful
 17 detention.

18 (5) Place the defendant under the reasonable supervision of a
 19 probation officer, pretrial services agency, or other appropriate
 20 public official. If the court places the defendant under the
 21 supervision of a probation officer or pretrial services agency, the
 22 court shall determine whether the defendant must pay the pretrial
 23 services fee under section 3.3 of this chapter.

24 (6) Release the defendant into the care of a qualified person or
 25 organization responsible for supervising the defendant and
 26 assisting the defendant in appearing in court. The supervisor shall
 27 maintain reasonable contact with the defendant in order to assist
 28 the defendant in making arrangements to appear in court and,
 29 where appropriate, shall accompany the defendant to court. The
 30 supervisor need not be financially responsible for the defendant.

31 (7) Release the defendant on personal recognizance unless:

32 (A) the state presents evidence relevant to a risk by the
 33 defendant:

34 (i) of nonappearance; or

35 (ii) to the physical safety of the public; and

36 (B) the court finds by a preponderance of the evidence that the
 37 risk exists.

38 (8) Require a defendant charged with an offense under IC 35-46-3
 39 to refrain from owning, harboring, or training an animal.

40 (9) Impose any other reasonable restrictions designed to assure
 41 the defendant's presence in court or the physical safety of another
 42 person or the community.

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1 (b) Within thirty (30) days after disposition of the charges against
 2 the defendant, the court that admitted the defendant to bail shall order
 3 the clerk to remit the amount of the deposit remaining under subsection
 4 (a)(2) to the defendant. The portion of the deposit that is not remitted
 5 to the defendant shall be deposited by the clerk in the supplemental
 6 public defender services fund established under IC 33-40-3.

7 (c) For purposes of subsection (b), "disposition" occurs when the
 8 ~~indictment~~ or information is dismissed or the defendant is acquitted or
 9 convicted of the charges.

10 (d) Except as provided in subsection (e), the clerk of the court shall:

11 (1) collect a fee of five dollars (\$5) from each bond or deposit
 12 required under subsection (a)(1); and

13 (2) retain a fee of five dollars (\$5) from each deposit under
 14 subsection (a)(2).

15 The clerk of the court shall semiannually remit the fees collected under
 16 this subsection to the board of trustees of the public employees'
 17 retirement fund for deposit in the special death benefit fund. The fee
 18 required by subdivision (2) is in addition to the administrative fee
 19 retained under subsection (a)(2).

20 (e) With the approval of the clerk of the court, the county sheriff
 21 may collect the bail posted under this section. The county sheriff shall
 22 remit the bail to the clerk of the court by the following business day
 23 and remit monthly the five dollar (\$5) special death benefit fee to the
 24 county auditor.

25 (f) When a court imposes a condition of bail described in subsection
 26 (a)(4):

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

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

31 SECTION 83. IC 35-33-8-4, AS AMENDED BY P.L.171-2011,
 32 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2012]: Sec. 4. (a) The court shall order the amount in which
 34 a person charged by an ~~indictment~~ or information is to be held to bail,
 35 and the clerk shall enter the order on the order book and indorse the
 36 amount on each warrant when issued. If no order fixing the amount of
 37 bail has been made, the sheriff shall present the warrant to the judge of
 38 an appropriate court of criminal jurisdiction, and the judge shall
 39 indorse on the warrant the amount of bail.

40 (b) Bail may not be set higher than that amount reasonably required
 41 to assure the defendant's appearance in court or to assure the physical
 42 safety of another person or the community if the court finds by clear

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1 and convincing evidence that the defendant poses a risk to the physical
2 safety of another person or the community. In setting and accepting an
3 amount of bail, the judicial officer shall take into account all facts
4 relevant to the risk of nonappearance, including:

- 5 (1) the length and character of the defendant's residence in the
6 community;
- 7 (2) the defendant's employment status and history and ~~his~~ **the**
8 **defendant's** ability to give bail;
- 9 (3) the defendant's family ties and relationships;
- 10 (4) the defendant's character, reputation, habits, and mental
11 condition;
- 12 (5) the defendant's criminal or juvenile record, insofar as it
13 demonstrates instability and a disdain for the court's authority to
14 bring ~~him~~ **the defendant** to trial;
- 15 (6) the defendant's previous record in not responding to court
16 appearances when required or with respect to flight to avoid
17 criminal prosecution;
- 18 (7) the nature and gravity of the offense and the potential penalty
19 faced, insofar as these factors are relevant to the risk of
20 nonappearance;
- 21 (8) the source of funds or property to be used to post bail or to pay
22 a premium, insofar as it affects the risk of nonappearance;
- 23 (9) that the defendant is a foreign national who is unlawfully
24 present in the United States under federal immigration law; and
25 (10) any other factors, including any evidence of instability and
26 a disdain for authority, which might indicate that the defendant
27 might not recognize and adhere to the authority of the court to
28 bring ~~him~~ **the defendant** to trial.

29 SECTION 84. IC 35-33-8.5-6 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. When any person is
31 ~~indicted~~ **named in an information** for murder, the court in which the
32 ~~indictment~~ **information** is pending, upon motion, upon application by
33 writ of habeas corpus, may admit the defendant to bail when it appears
34 upon examination that the defendant is entitled to be let to bail.

35 SECTION 85. IC 35-33-10-2 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) When an
37 ~~indictment~~ **or** information is pending against a defendant confined in
38 this state under a judgment or court order, the court with jurisdiction
39 over the pending criminal action shall, after application by the
40 prosecuting attorney, order that the defendant be produced before the
41 court for prosecution. The defendant shall not be entitled to release
42 pending trial on the ~~indictment~~ **or** information. The court may order

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1 that the defendant be surrendered to the sheriff of the county in which
 2 the court issuing the order is located. The court may order the sheriff
 3 to convey the defendant from the institution and commit the defendant
 4 to the jail or to another place of custody specified in the order. If the
 5 proceeding is delayed, the court may order the defendant returned
 6 temporarily to the institution until the presence of the defendant before
 7 the court is required.

8 (b) When an indictment or information is pending against a
 9 defendant:

10 (1) confined in an institution within this state pending trial for
 11 another offense; or

12 (2) who has been released by order of another court pending trial
 13 before that court for another offense;

14 the court shall, upon motion of the prosecuting attorney, issue a warrant
 15 of detainer to the court before which the other prosecution is pending.
 16 The court to which the order of detainer is issued, shall, upon
 17 termination of the proceedings before the court, deliver custody of the
 18 defendant to the sheriff of the county in which the court issuing the
 19 warrant is situated. Upon delivery, the court shall return the warrant to
 20 the court of issuance showing such fact. A duplicate copy of the return
 21 shall be served upon the prosecuting attorney who requested the
 22 issuance of the warrant.

23 SECTION 86. IC 35-33-10-5 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. Securing Attendance
 25 of Defendant Confined in Federal Institutions. (1) A defendant against
 26 whom a criminal action is pending in a court of record of this state, and
 27 who is confined in a federal prison or other institution either within or
 28 outside this state, may, with the consent of the attorney general of the
 29 United States, be produced in such court for the purpose of criminal
 30 prosecution, pursuant to the provisions of:

31 (a) Section four thousand eighty-five of title eighteen of the
 32 United States Code as in effect on July 26, 1973; or

33 (b) subsection 2 of this section.

34 (2) When such a defendant is in federal custody as specified in
 35 subsection 1, a court in which the criminal action against such
 36 defendant is pending, may, upon application of the prosecuting attorney
 37 of such county, issue a certificate, known as a writ of habeas corpus ad
 38 prosequendum, addressed to the attorney general of the United States,
 39 certifying that such defendant has been charged by indictment or
 40 information filed against **him the defendant** in the specified court with
 41 the offense or offenses alleged therein, and that attendance of the
 42 defendant in such court for the purpose of criminal prosecution thereon

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1 is necessary in the interest of justice and requesting the attorney
 2 general of the United States to cause such defendant to be produced in
 3 such court, under custody of a federal public servant, upon a designated
 4 date and for a period of time necessary to complete the prosecution.
 5 Upon issuing such a certificate, the court may deliver it, or cause or
 6 authorize it to be delivered, together with a certified copy of the
 7 indictment or information upon which it is based, to the attorney
 8 general of the United States or to ~~his~~ **the attorney general's**
 9 representative authorized to entertain the request.

10 SECTION 87. IC 35-33-10-6 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. Securing Attendance
 12 of Defendants Who Are Outside The United States. (1) When a
 13 criminal action for a crime committed in this state is pending in a court
 14 of this state with jurisdiction over the crime against a defendant who is
 15 in a foreign country with which the United States has an extradition
 16 treaty, and when the ~~indictment or~~ information charges a crime which
 17 is specified in such treaty as an extraditable one, the prosecuting
 18 attorney of the county in which such crime was allegedly committed
 19 may make an application to the governor, requesting ~~him~~ **the governor**
 20 to make an application to the president of the United States to institute
 21 extradition proceedings for the return of the defendant to this country
 22 and state for the purpose of prosecution of such action. The prosecuting
 23 attorney's application must comply with any rules, regulations, and
 24 guidelines established by the governor for such applications and must
 25 be accompanied by all the documents required by such rules,
 26 regulations, and guidelines.

27 (2) Upon receipt of the prosecuting attorney's application, the
 28 governor, if satisfied that the defendant is in the foreign country in
 29 question, that the crime charged is an extraditable one pursuant to the
 30 treaty in question, and that there are no factors or impediments which
 31 in law preclude such an extradition, may, in ~~his~~ **the governor's**
 32 discretion, make an application, addressed to the secretary of state of
 33 the United States, requesting that the president of the United States
 34 institute extradition proceedings for the return of the defendant from
 35 such foreign country. The governor's application must comply with any
 36 rules, regulations, and guidelines established by the secretary of state
 37 for such applications and must be accompanied by all the documents
 38 required by such rules, regulations, and guidelines.

39 (3) If the governor's application is granted and the extradition is
 40 achieved or attempted, all expenses incurred therein must be borne by
 41 the county from which the application emanated.

42 (4) The provisions of this section apply equally to extradition or

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1 attempted extradition of a person who is a fugitive following the entry
2 of a judgment of conviction against ~~him~~ **the person** in a criminal court
3 of this state.

4 SECTION 88. IC 35-33.5-5-3 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) A law
6 enforcement officer who has obtained knowledge under this article of
7 the contents of an interception or of evidence derived from that
8 interception may:

- 9 (1) disclose the contents to another law enforcement officer; or
- 10 (2) use the contents of the interception;

11 only to the extent that use or disclosure of the contents of the
12 interception is appropriate to the proper performance of the official
13 duties of the law enforcement officer.

14 (b) If a recorded interception is transcribed by order of a court or by
15 a law enforcement agency, only that part of the interception that is
16 relevant to the prosecution of a designated offense may be transcribed.

17 (c) A person, other than a law enforcement officer, who has
18 received, by a means authorized by this article, information concerning
19 an interception or evidence derived from an interception under this
20 article may disclose the contents of the interception or evidence derived
21 from the interception only while giving testimony under oath or
22 affirmation in a criminal court proceeding, ~~or grand jury proceeding.~~
23 This subsection does not apply to a disclosure by a person of the
24 contents of reports submitted under IC 35-33.5-2-4 and IC 35-33.5-2-5
25 or to the contents of an interception or evidence derived from an
26 interception that is either:

- 27 (1) maintained in the record of a court proceeding and made
28 accessible to the public; or
- 29 (2) previously disclosed in a court proceeding that is open to the
30 public.

31 (d) An otherwise privileged communication that is intercepted in
32 accordance with or in violation of this article does not lose the
33 communication's privileged character.

34 (e) When a law enforcement officer, while engaged in intercepting
35 communications in a manner authorized by this article, intercepts
36 communications relating to offenses other than those specified in the
37 order of authorization, the contents of those interceptions, and evidence
38 derived from those interceptions, may be disclosed or used as provided
39 in subsections (a) and (c). The contents and evidence may be used
40 under subsection (d) when authorized by the court upon a finding, on
41 subsequent application, that the contents were otherwise intercepted in
42 accordance with this article. A subsequent application shall be made as

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1 soon as practicable.

2 SECTION 89. IC 35-34-1-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) All prosecutions
4 of crimes shall be brought in the name of the state of Indiana. ~~Any~~
5 **Every crime may shall** be charged by ~~indictment or~~ information.

6 (b) Except as provided in IC 12-15-23-6(d), all prosecutions of
7 crimes shall be instituted by the filing of an information ~~or indictment~~
8 by the prosecuting attorney, in a court with jurisdiction over the crime
9 charged.

10 (c) Whenever an ~~indictment or~~ information is filed, the clerk of the
11 court shall:

- 12 (1) mark the date of filing on the instrument;
- 13 (2) record it in a record book; and
- 14 (3) upon request, make a copy of it available to the defendant or
15 **his the defendant's** attorney.

16 (d) The court, upon motion of the prosecuting attorney, may order
17 that the ~~indictment or~~ information be sealed. If a court has sealed an
18 ~~indictment or~~ information, no person may disclose the fact that an
19 ~~indictment or~~ information is in existence or pending until the defendant
20 has been arrested or otherwise brought within the custody of the court.
21 However, any person may make any disclosure necessarily incident to
22 the arrest of the defendant. A violation of this subsection is punishable
23 as a contempt.

24 SECTION 90. IC 35-34-1-2, AS AMENDED BY P.L.2-2005,
25 SECTION 119, IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The ~~indictment or~~ information
27 shall be in writing and allege the commission of an offense by:

- 28 (1) stating the title of the action and the name of the court in
29 which the ~~indictment or~~ information is filed;
- 30 (2) stating the name of the offense in the words of the statute or
31 any other words conveying the same meaning;
- 32 (3) citing the statutory provision alleged to have been violated,
33 except that any failure to include such a citation or any error in
34 such a citation does not constitute grounds for reversal of a
35 conviction where the defendant was not otherwise misled as to the
36 nature of the charges against the defendant;
- 37 (4) setting forth the nature and elements of the offense charged in
38 plain and concise language without unnecessary repetition;
- 39 (5) stating the date of the offense with sufficient particularity to
40 show that the offense was committed within the period of
41 limitations applicable to that offense;
- 42 (6) stating the time of the offense as definitely as can be done if

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1 time is of the essence of the offense;

2 (7) stating the place of the offense with sufficient particularity to
3 show that the offense was committed within the jurisdiction of the
4 court where the charge is to be filed;

5 (8) stating the place of the offense as definitely as can be done if
6 the place is of the essence of the offense; and

7 (9) stating the name of every defendant, if known, and if not
8 known, by designating the defendant by any name or description
9 by which ~~he~~ **the defendant** can be identified with reasonable
10 certainty.

11 (b) An indictment shall be signed by:

12 ~~(1) the foreman or five (5) members of the grand jury; and~~

13 ~~(2) the prosecuting attorney or his deputy.~~

14 An information shall be signed by the prosecuting attorney or his
15 deputy **prosecuting attorney** and sworn to or affirmed by ~~him~~ **the**
16 **prosecuting attorney, the deputy prosecuting attorney**, or any other
17 person.

18 (c) An ~~indictment or~~ information shall have stated upon it the names
19 of all the material witnesses. Other witnesses may afterwards be
20 subpoenaed by the state, but unless the name of a witness is stated on
21 the ~~indictment or~~ information, no continuance shall be granted to the
22 state due to the absence of the witness.

23 (d) The ~~indictment or~~ information shall be a plain, concise, and
24 definite written statement of the essential facts constituting the offense
25 charged. It need not contain a formal commencement, a formal
26 conclusion, or any other matter not necessary to the statement.
27 Presumptions of law and matters of which judicial notice is taken need
28 not be stated.

29 (e) The ~~indictment~~ **information** may be substantially in the
30 following form:

31 IN THE _____ COURT OF INDIANA, 20 ____

32 STATE OF INDIANA

33 vs. CAUSE NUMBER _____

34 A _____ B _____

35 ~~The grand jury of the county of _____ upon their oath or~~
36 ~~affirmation do present~~ **CD, being duly sworn under oath or having**
37 **affirmed, says** that AB, on the _____ day of _____ 20 ____
38 at the county of _____ in the state of Indiana (HERE SET FORTH
39 THE OFFENSE CHARGED).

40 ~~(f) The information may be substantially in the same form as the~~
41 ~~indictment; substituting for the words; "the grand jury of the county of~~
42 ~~_____ , upon their oath or affirmation so present" the following:~~



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1 ~~"CD; being duly sworn on his oath or having affirmed, says."~~ It is not
 2 necessary in an information to state the reason why the proceeding is
 3 by information rather than indictment.

4 ~~(g)~~ **(f)** This section applies to a traffic offense (as defined in
 5 IC 9-30-3-5) if the traffic offense is:

- 6 (1) a felony; or
 7 (2) a misdemeanor.

8 SECTION 91. IC 35-34-1-2.4 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.4. (a) If an
 10 ~~indictment~~; information, pleading, motion, petition, probable cause
 11 affidavit, or other document is required to be verified or sworn under
 12 oath before it is submitted to the court in a criminal action, the
 13 document meets the requirements of the law as a sworn document if the
 14 following form or a substantially similar form is used:

15 I swear (affirm), under penalty of perjury as specified by
 16 IC 35-44-2-1, that the foregoing (the following) representations
 17 are true.

18 Signed _____

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

22 (c) A person who makes a false affirmation or verification under this
 23 section may be prosecuted under IC 35-44-2-1.

24 SECTION 92. IC 35-34-1-3 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. When an ~~indictment~~
 26 ~~or~~ information which has been returned or presented to a court as
 27 authorized by law has become illegible or cannot be produced, the
 28 defendant may be tried using a copy certified by the clerk of the court.

29 SECTION 93. IC 35-34-1-4 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The court may,
 31 upon motion of the defendant, dismiss the ~~indictment or~~ information
 32 upon any of the following grounds:

- 33 (1) The ~~indictment or~~ information, or any count thereof, is
 34 defective under section 6 of this chapter.
 35 (2) Misjoinder of offenses or parties defendant, or duplicity of
 36 allegation in counts.
 37 ~~(3) The grand jury proceeding was defective.~~
 38 ~~(4)~~ **(3)** The ~~indictment or~~ information does not state the offense
 39 with sufficient certainty.
 40 ~~(5)~~ **(4)** The facts stated do not constitute an offense.
 41 ~~(6)~~ **(5)** The defendant has immunity with respect to the offense
 42 charged.



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- 1 ~~(7)~~ **(6)** The prosecution is barred by reason of a previous
 2 prosecution.
 3 ~~(8)~~ **(7)** The prosecution is untimely brought.
 4 ~~(9)~~ **(8)** The defendant has been denied the right to a speedy trial.
 5 ~~(10)~~ **(9)** There exists some jurisdictional impediment to
 6 conviction of the defendant for the offense charged.
 7 ~~(11)~~ **(10)** Any other ground that is a basis for dismissal as a matter
 8 of law.
 9 (b) Except as otherwise provided, a motion under this section shall
 10 be made no later than:
 11 (1) twenty (20) days if the defendant is charged with a felony; or
 12 (2) ten (10) days if the defendant is charged only with one (1) or
 13 more misdemeanors;
 14 prior to the omnibus date. A motion made thereafter may be summarily
 15 denied if based upon a ground specified in subdivision (a)(1), (a)(2),
 16 (a)(3), **or** (a)(4). ~~or (a)(5) of this section~~. A motion to dismiss based
 17 upon a ground specified in subdivision **(a)(5)**, (a)(6), (a)(7), (a)(8),
 18 (a)(9), **or** (a)(10) ~~or (a)(11) of this section~~ may be made or renewed at
 19 any time before or during trial. A motion to dismiss based upon lack of
 20 jurisdiction over the subject matter may be made at any time.
 21 (c) Upon the motion to dismiss, a defendant who is in a position
 22 adequately to raise more than one (1) ground in support thereof shall
 23 raise every ground upon which ~~he~~ **the defendant** intends to challenge
 24 the ~~indictment~~ **or** information. A subsequent motion based upon a
 25 ground not properly raised may be summarily denied. However, the
 26 court, in the interest of justice and for good cause shown, may entertain
 27 and dispose of such a motion on the merits.
 28 (d) Upon the motion to dismiss, the court shall:
 29 (1) overrule the motion to dismiss;
 30 (2) grant the motion to dismiss and discharge the defendant; or
 31 (3) grant the motion to dismiss and deny discharge of the
 32 defendant if the court determines that the ~~indictment~~ **or**
 33 information may be cured by amendment under section 5 of this
 34 chapter and the prosecuting attorney has moved for leave to
 35 amend.
 36 If the court grants the motion under subdivision (3) and grants the
 37 prosecuting attorney leave to amend, any prior order imposing
 38 conditions of release pending trial shall stand unless otherwise
 39 modified or removed by order of the court.
 40 (e) If the court grants a motion under subsection (a)(3) and the
 41 prosecuting attorney informs the court on the record that the charges
 42 will be refiled within seventy-two (72) hours by information:

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- 1 (1) the court may not discharge the defendant; and
 2 (2) any prior order concerning release pending trial remains in
 3 force unless it is modified or removed by the court.

4 (f) An order of dismissal does not, of itself, constitute a bar to a
 5 subsequent prosecution of the same crime or crimes except as
 6 otherwise provided by law.

7 SECTION 94. IC 35-34-1-5, AS AMENDED BY P.L.178-2007,
 8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2012]: Sec. 5. (a) An indictment or information which charges
 10 the commission of an offense may not be dismissed but may be
 11 amended on motion by the prosecuting attorney at any time because of
 12 any immaterial defect, including:

- 13 (1) any miswriting, misspelling, or grammatical error;
 14 (2) any misjoinder of parties defendant or offenses charged;
 15 (3) the presence of any unnecessary repugnant allegation;
 16 (4) the failure to negate any exception, excuse, or provision
 17 contained in the statute defining the offense;
 18 (5) the use of alternative or disjunctive allegations as to the acts,
 19 means, intents, or results charged;
 20 (6) any mistake in the name of the court or county in the title of
 21 the action, or the statutory provision alleged to have been
 22 violated;
 23 (7) the failure to state the time or place at which the offense was
 24 committed where the time or place is not of the essence of the
 25 offense;
 26 (8) the failure to state an amount of value or price of any matter
 27 where that value or price is not of the essence of the offense; or
 28 (9) any other defect which does not prejudice the substantial
 29 rights of the defendant.

30 (b) The indictment or information may be amended in matters of
 31 substance and the names of material witnesses may be added, by the
 32 prosecuting attorney, upon giving written notice to the defendant at any
 33 time:

- 34 (1) up to:
 35 (A) thirty (30) days if the defendant is charged with a felony;
 36 or
 37 (B) fifteen (15) days if the defendant is charged only with one
 38 (1) or more misdemeanors;
 39 before the omnibus date; or
 40 (2) before the commencement of trial;

41 if the amendment does not prejudice the substantial rights of the
 42 defendant. When the information or indictment is amended, it shall be

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1 signed by the prosecuting attorney or a deputy prosecuting attorney.

2 (c) Upon motion of the prosecuting attorney, the court may, at any
3 time before, during, or after the trial, permit an amendment to the
4 ~~indictment or~~ information in respect to any defect, imperfection, or
5 omission in form which does not prejudice the substantial rights of the
6 defendant.

7 (d) Before amendment of any ~~indictment or~~ information other than
8 amendment as provided in subsection (b), ~~of this section~~, the court
9 shall give all parties adequate notice of the intended amendment and
10 an opportunity to be heard. Upon permitting such amendment, the court
11 shall, upon motion by the defendant, order any continuance of the
12 proceedings which may be necessary to accord the defendant adequate
13 opportunity to prepare ~~his a~~ defense.

14 (e) An amendment of an ~~indictment or~~ information to include a
15 habitual offender charge under IC 35-50-2-8, IC 35-50-2-8.5, or
16 IC 35-50-2-10 must be made not later than ten (10) days after the
17 omnibus date. However, upon a showing of good cause, the court may
18 permit the filing of a habitual offender charge at any time before the
19 commencement of the trial.

20 SECTION 95. IC 35-34-1-6 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) An ~~indictment or~~
22 information is defective when:

- 23 (1) it does not substantially conform to the requirements of
24 section 2(a) of this chapter;
25 (2) the allegations demonstrate that the court does not have
26 jurisdiction of the offense charged; or
27 (3) the statute defining the offense charged is unconstitutional or
28 otherwise invalid.

29 (b) An information is defective if:

- 30 (1) ~~the defendant was a grand jury target identified under~~
31 ~~IC 35-34-2-12(a)(1);~~
32 (2) ~~the offense alleged was identified on the record under~~
33 ~~IC 35-34-2-12(a)(2) as an offense that the defendant allegedly~~
34 ~~committed; and~~
35 (3) ~~the grand jury proceeded to deliberate on whether to issue an~~
36 ~~indictment, and voted not to indict the defendant for the offense~~
37 ~~identified on the record under IC 35-34-2-12(a)(2).~~

38 However, if the prosecuting attorney shows that there is newly
39 discovered material evidence that was not presented to the grand jury
40 before the grand jury's failure to indict, then the information is not
41 defective.

42 (c) ~~(b)~~ Except as provided in section 5 of this chapter, an ~~indictment~~

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1 or information or a count thereof shall be dismissed upon motion when
2 it is defective.

3 SECTION 96. IC 35-34-1-7 IS REPEALED [EFFECTIVE JULY 1,
4 2012]. ~~Sec. 7. An indictment shall be dismissed upon motion when the~~
5 ~~grand jury proceeding which resulted in the indictment was conducted~~
6 ~~in violation of IC 35-34-2.~~

7 SECTION 97. IC 35-34-1-8 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) A motion to
9 dismiss an ~~indictment~~ or information under section 4 of this chapter
10 shall be in writing. The prosecutor must be given reasonable notice of
11 a motion to dismiss. If the motion is expressly or impliedly based upon
12 the existence or occurrence of facts, the motion shall be accompanied
13 by affidavits containing sworn allegations of these facts. The sworn
14 allegations may be based upon personal knowledge of the affiant or
15 upon information and belief, provided that in the latter event the affiant
16 discloses the sources of the information and the grounds for the belief.
17 If the motion is expressly or impliedly based upon the existence of any
18 question of law, the motion shall be accompanied by a memorandum
19 stating specifically the legal question in issue. The defendant may also
20 submit documentary evidence tending to support the allegations of the
21 motion.

22 (b) The prosecutor may:

- 23 (1) file with the court an answer denying or admitting any or all
24 of the allegations of the motion; and
25 (2) submit documentary evidence tending to refute the
26 allegations.

27 (c) After all papers of both parties have been filed, and after all
28 documentary evidence has been submitted, the court shall determine
29 whether, under subsections (d) and (e) of this section, a hearing is
30 necessary to resolve questions of fact.

31 (d) The court shall grant the motion without conducting a hearing
32 only if:

- 33 (1) the motion alleges a ground constituting a legal basis for the
34 motion under section 4 of this chapter;
35 (2) the ground, if expressly or impliedly based upon the existence
36 or occurrence of facts, is supported by sworn allegations of all
37 facts essential to support the motion; and
38 (3) the sworn allegations of fact essential to support the motion
39 are admitted as true by the prosecutor or are conclusively
40 established by documentary evidence.

41 (e) The court may deny the motion without conducting a hearing
42 only if:

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1 (1) the motion does not allege a ground constituting a legal basis
2 for the motion under section 4 of this chapter;

3 (2) the motion is expressly or impliedly based upon the existence
4 or occurrence of facts, and the motion does not contain sworn
5 allegations supporting all the essential facts; or

6 (3) an allegation of fact essential to support the motion is
7 conclusively refuted by documentary evidence.

8 (f) If a hearing is necessary to resolve questions of fact, the court
9 shall conduct a hearing and make findings of fact essential to the
10 determination of the motion. The defendant has a right to be present
11 and represented by counsel at the hearing but may waive this right. The
12 defendant has the burden of proving by a preponderance of the
13 evidence every fact essential to support the motion.

14 SECTION 98. IC 35-34-1-9 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) Two (2) or more
16 offenses may be joined in the same ~~indictment~~ or information, with
17 each offense stated in a separate count, when the offenses:

18 (1) are of the same or similar character, even if not part of a single
19 scheme or plan; or

20 (2) are based on the same conduct or on a series of acts connected
21 together or constituting parts of a single scheme or plan.

22 (b) Two (2) or more defendants can be joined in the same
23 ~~indictment~~ or information when:

24 (1) each defendant is charged with each offense included;

25 (2) each of the defendants is charged as a conspirator or party to
26 the commission of the offense and some of the defendants are also
27 charged with one (1) or more offenses alleged to be in furtherance
28 of the conspiracy or common scheme or plan; however, a party to
29 the commission of an offense or conspirator need not be
30 designated as such in the indictment or information; or

31 (3) conspiracy is not charged and not all of the defendants are
32 charged in each count, if it is alleged in the ~~indictment~~ or
33 information that the offenses charged:

34 (A) were part of a common scheme or plan; or

35 (B) were so closely connected in respect to time, place, and
36 occasion that it would be difficult to separate proof of one (1)
37 charge from proof of the others.

38 SECTION 99. IC 35-34-1-10 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) When a
40 defendant has been charged with two (2) or more offenses in two (2) or
41 more ~~indictments~~ or informations and the offenses could be joined in
42 the same ~~indictment~~ or information under section 9(a)(1) of this

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1 chapter, the court, upon motion of the defendant, may order that the
 2 ~~indictments or~~ informations be joined for trial. Such motion shall be
 3 made before commencement of trial on either of the offenses charged.

4 (b) When a defendant has been charged with two (2) or more
 5 offenses in two (2) or more ~~indictments or~~ informations and the
 6 offenses could have been joined in the same ~~indictment or~~ information
 7 under section (9)(a)(2) of this chapter, the court, upon motion of the
 8 defendant or the prosecuting attorney, or on its own motion, shall join
 9 for trial all of such ~~indictments or~~ informations unless the court, in the
 10 interests of justice, orders that one (1) or more of such offenses shall be
 11 tried separately. Such motion shall be made before commencement of
 12 trial on either of the offenses charged.

13 (c) A defendant who has been tried for one (1) offense may
 14 thereafter move to dismiss an ~~indictment or~~ information for an offense
 15 which could have been joined for trial with the prior offenses under
 16 section 9 of this chapter. The motion to dismiss shall be made prior to
 17 the second trial, and shall be granted if the prosecution is barred by
 18 reason of the former prosecution.

19 (d) A defendant who has been sentenced on a plea of guilty to one
 20 (1) offense may move to dismiss an ~~indictment or~~ information for a
 21 related offense. The motion shall be granted if the plea of guilty was
 22 entered on the basis of a plea agreement in which the prosecutor agreed
 23 to seek or not to oppose dismissal of other related offenses or not to
 24 prosecute other potential related offenses.

25 (e) Subject to the provisions of section 11(a) of this chapter, two (2)
 26 or more offenses which are within the jurisdiction of the same court
 27 and which could have been joined in one (1) prosecution constitute
 28 related offenses.

29 SECTION 100. IC 35-34-1-11 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) Whenever two
 31 (2) or more offenses have been joined for trial in the same ~~indictment~~
 32 ~~or~~ information solely on the ground that they are of the same or similar
 33 character, the defendant shall have a right to a severance of the
 34 offenses. In all other cases the court, upon motion of the defendant or
 35 the prosecutor, shall grant a severance of offenses whenever the court
 36 determines that severance is appropriate to promote a fair
 37 determination of the defendant's guilt or innocence of each offense
 38 considering:

- 39 (1) the number of offenses charged;
 40 (2) the complexity of the evidence to be offered; and
 41 (3) whether the trier of fact will be able to distinguish the
 42 evidence and apply the law intelligently as to each offense.



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1 (b) Whenever two (2) or more defendants have been joined for trial
 2 in the same ~~indictment~~ or information and one (1) or more defendants
 3 move for a separate trial because another defendant has made an
 4 out-of-court statement which makes reference to the moving defendant
 5 but is not admissible as evidence against ~~him~~; **the moving defendant**,
 6 the court shall require the prosecutor to elect:

7 (1) a joint trial at which the statement is not admitted into
 8 evidence;

9 (2) a joint trial at which the statement is admitted into evidence
 10 only after all references to the moving defendant have been
 11 effectively deleted; or

12 (3) a separate trial for the moving defendant.

13 In all other cases, upon motion of the defendant or the prosecutor, the
 14 court shall order a separate trial of defendants whenever the court
 15 determines that a separate trial is necessary to protect a defendant's
 16 right to a speedy trial or is appropriate to promote a fair determination
 17 of the guilt or innocence of a defendant.

18 (c) The court may order the prosecutor to disclose in camera any
 19 information concerning statements made by the defendants which the
 20 prosecutor intends to introduce in evidence at the trial if this
 21 information would assist the court in ruling on a motion for a separate
 22 trial.

23 SECTION 101. IC 35-34-1-13 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) Upon motion of
 25 the prosecuting attorney, the court shall order the dismissal of the
 26 ~~indictment~~ or information. The motion may be made at any time before
 27 sentencing and may be made on the record or in writing. The motion
 28 shall state the reason for dismissal.

29 (b) In any case where an order sustaining a motion to dismiss would
 30 otherwise constitute a bar to further prosecution of the crime charged,
 31 unless the defendant objects to dismissal, the granting of the motion
 32 does not bar a subsequent trial of the defendant on the offense charged.

33 SECTION 102. IC 35-34-1-14 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. In any ~~indictment~~
 35 or information, an averment substantially in compliance with the
 36 provisions of this section shall be sufficient.

37 (a) The age of the defendant or the victim need not be alleged,
 38 except where the age of the defendant or the victim is an essential
 39 element of the offense charged.

40 (b) Averments as to any money or bills or notes or postal orders
 41 issued by any lawful authority and intended to pass and circulate as
 42 money are sufficient to be alleged simply as money without further

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1 identification.

2 (c) It is sufficient to describe a written instrument by any name or
3 designation by which it is usually known or to aver generally the
4 contents of such instrument.

5 (d) Averments of dates and numbers may be by words or figures or
6 both.

7 SECTION 103. IC 35-34-1-15 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) If the stated
9 name of the defendant in the indictment or information is incorrect:

10 (1) this defect shall not be a ground for dismissal of the
11 indictment or information; and

12 (2) any variance between the allegations and the proof of the
13 defendant's name shall not be considered material.

14 (b) If at any time during the proceedings the true name of the
15 defendant becomes known, the court shall order the indictment or
16 information amended to show both the name by which the defendant
17 was first charged and the name later alleged to be true.

18 SECTION 104. IC 35-34-1-16 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) In an indictment
20 or information for perjury, it is necessary to set forth only:

21 (1) the substance of the controversy or the matter in respect to
22 which the alleged offense was committed; and

23 (2) in what court or before whom the false statement was made.

24 It is not necessary to set forth any part of any record or proceeding, or
25 the commission or authority of the court or person before whom the
26 perjury was allegedly committed.

27 (b) In an indictment or information for perjury, in swearing to any
28 written instrument, it is necessary to set forth only that part of the
29 instrument alleged to have been falsely sworn to, and to negative the
30 same, with the name of the officer or court before whom the instrument
31 was sworn.

32 SECTION 105. IC 35-34-1-17 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. When an
34 instrument which is the subject of an indictment or information for
35 forgery has been destroyed, or is withheld by the act or procurement of
36 the defendant, and the fact of the destruction or withholding is alleged
37 in the indictment or information, and established at trial, the
38 misdescription of the instrument is immaterial.

39 SECTION 106. IC 35-34-1-18 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. The indictment or
41 information for an offense which was committed upon or in relation to
42 any property belonging to partners, or to several joint owners, or



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1 property which, when the offense was committed, was in possession of
 2 a bailee or tenant, is sufficient if ~~it~~ **the information** alleges the
 3 ownership of the property to be in the name of:

- 4 (1) the partnership or any partner;
 5 (2) an owner;
 6 (3) a bailor;
 7 (4) a bailee; or
 8 (5) a tenant.

9 SECTION 107. IC 35-34-1-19 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. The words used in
 11 an ~~indictment or~~ information shall be construed using their ordinary
 12 and common meaning, except words and phrases defined by law, which
 13 are to be construed according to their legal meaning.

14 SECTION 108. IC 35-34-2 IS REPEALED [EFFECTIVE JULY 1,
 15 2012]. (Grand Jury and Special Grand Jury).

16 SECTION 109. IC 35-35-2-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Pleadings in
 18 criminal proceedings are:

- 19 ~~(+) an indictment;~~
 20 ~~(2) (1) an information; and~~
 21 ~~(3) (2) pleas of:~~
 22 (A) not guilty;
 23 (B) guilty; and
 24 (C) guilty but mentally ill at the time of the crime.

25 Defenses and objections raised before trial which, before July 26, 1973,
 26 could have been raised by a plea in abatement, a plea in bar, a
 27 demurrer, a motion to quash, or any other plea not specifically allowed
 28 under this subsection may be raised only by motion to dismiss or to
 29 grant appropriate relief as provided in this title.

30 (b) Except as provided in this title, an application to the court for an
 31 order must be by motion. A motion other than one made during a trial
 32 or hearing must be in writing unless the court permits it to be made
 33 orally. It must state the grounds upon which it is made and set forth the
 34 relief or order sought. It may be supported by affidavit.

35 (c) Except as provided in this title, whenever the defendant files a
 36 motion, the state may file an answer to that motion. If no answer is filed
 37 by the state, all issues of fact and law raised by the motion stand at
 38 issue and the court shall proceed.

39 SECTION 110. IC 35-36-2-2 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) At the trial of a
 41 criminal case in which the defendant intends to interpose the defense
 42 of insanity, evidence may be introduced to prove the defendant's sanity

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1 or insanity at the time at which the defendant is alleged to have
2 committed the offense charged in the ~~indictment~~ or information.

3 (b) When notice of an insanity defense is filed, the court shall
4 appoint two (2) or three (3) competent disinterested psychiatrists,
5 psychologists endorsed by the state psychology board as health service
6 providers in psychology, or physicians, at least one (1) of whom must
7 be a psychiatrist, to examine the defendant and to testify at the trial.
8 This testimony shall follow the presentation of the evidence for the
9 prosecution and for the defense, including testimony of any medical
10 experts employed by the state or by the defense.

11 (c) If a defendant does not adequately communicate, participate, and
12 cooperate with the medical witnesses appointed by the court, after
13 being ordered to do so by the court, the defendant may not present as
14 evidence the testimony of any other medical witness:

15 (1) with whom the defendant adequately communicated,
16 participated, and cooperated; and

17 (2) whose opinion is based upon examinations of the defendant;
18 unless the defendant shows by a preponderance of the evidence that the
19 defendant's failure to communicate, participate, or cooperate with the
20 medical witnesses appointed by the court was caused by the defendant's
21 mental illness.

22 (d) The medical witnesses appointed by the court may be
23 cross-examined by both the prosecution and the defense, and each side
24 may introduce evidence in rebuttal to the testimony of such a medical
25 witness.

26 SECTION 111. IC 35-36-4-2 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) When a
28 defendant files a notice of alibi, the prosecuting attorney shall file with
29 the court and serve upon the defendant, or upon ~~his~~ **the defendant's**
30 counsel, a specific statement containing:

31 (1) the date the defendant was alleged to have committed the
32 crime; and

33 (2) the exact place where the defendant was alleged to have
34 committed the crime;

35 that ~~he~~ **the prosecuting attorney** intends to present at trial. However,
36 the prosecuting attorney need not comply with this requirement if ~~he~~
37 **the prosecuting attorney** intends to present at trial the date and place
38 listed in the ~~indictment~~ or information as the date and place of the
39 crime.

40 (b) If a reply by the prosecuting attorney is required by subsection
41 (a) of this section, the prosecuting attorney shall serve such a statement
42 upon the defendant, or ~~his~~ **the defendant's** counsel, within seven (7)

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1 days after the filing of the defendant's first notice of alibi.

2 (c) If the prosecuting attorney's statement to the defendant contains
3 a date or place other than the date or place stated in the defendant's
4 original statement, the defendant shall file a second statement of alibi
5 if the defendant intends to produce at trial evidence of an alibi for the
6 date or place contained in the prosecutor's statement. The defendant
7 shall:

8 (1) file the second statement with the court; and

9 (2) serve the second statement upon the prosecuting attorney;
10 within four (4) days after the filing of the prosecuting attorney's
11 statement. The defendant's second statement must contain the same
12 details required in the defendant's original statement.

13 SECTION 112. IC 35-36-4-3 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) If either the
15 defendant or the prosecuting attorney fails to file or serve statements
16 in accordance with section 2 of this chapter, the judge may extend the
17 time for filing.

18 (b) If at the trial it appears that the defendant has failed to file and
19 serve an original statement of alibi in accordance with section 1 of this
20 chapter, and if the defendant does not show good cause for **his the**
21 **defendant's** failure, then the court shall exclude evidence offered by
22 the defendant to establish an alibi.

23 (c) If at the trial it appears that the prosecuting attorney has failed
24 to file and serve **his the prosecuting attorney's** statement in
25 accordance with section 2(a) of this chapter, and if the prosecuting
26 attorney does not show good cause for **his the** failure, then the court
27 shall exclude evidence offered by the prosecuting attorney to show:

28 (1) that the defendant was at a place other than the place stated in
29 the information; ~~or indictment~~ and

30 (2) that the date was other than the date stated in the ~~information~~
31 ~~or indictment~~.

32 (d) If at the trial it appears that the defendant has failed to file and
33 serve a second statement in accordance with section 2(c) of this
34 chapter, and if the defendant does not show good cause for **his the**
35 failure, then the court shall exclude evidence offered by the defendant
36 to establish that:

37 (1) ~~he the defendant~~ was at a place other than the place specified
38 in the prosecuting attorney's statement; or

39 (2) the date was other than the date stated in the prosecuting
40 attorney's statement.

41 SECTION 113. IC 35-36-6-2 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. After a change of

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1 venue, the cause shall be docketed and stand for trial. The court to
 2 which the case has been venued shall proceed in all respects as if the
 3 indictment had been found and returned by a grand jury impaneled in
 4 that court, or as if the information had been originally filed in that
 5 court.

6 SECTION 114. IC 35-36-6-6 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. If on a new
 8 prosecution a defendant is prosecuted for the offense in the court to
 9 which the change of venue was taken, a new indictment may be found;
 10 or a new information may be filed and the case may be prosecuted to
 11 final execution as if the offense had been committed in the county of
 12 that court. However, the indictment or information in such a case must
 13 state how the proceeding came into the court where the party elects to
 14 be tried, and that ~~he~~ **the party** has elected to be tried in that county.

15 SECTION 115. IC 35-36-7-2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) A prosecuting
 17 attorney may move to postpone the trial of a criminal cause because of
 18 the absence of a witness whose name is endorsed on the indictment or
 19 information, if ~~he~~ **the prosecuting attorney** makes an official
 20 statement:

- 21 (1) containing the requirements of ~~subsections (b)(1) and (b)(2)~~
 22 ~~of section † section 1(b)(1) and 1(b)(2)~~ of this chapter;
 23 (2) showing that the absence of the witness has not been procured
 24 by the act of the prosecuting attorney;
 25 (3) stating the facts to which ~~he~~ **the prosecuting attorney**
 26 believes the witness will testify, and include a statement that ~~he~~
 27 **the prosecuting attorney** believes these facts to be true; and
 28 (4) stating that the prosecuting attorney is unable to prove the
 29 facts specified in accordance with subdivision (3) through the use
 30 of any other witness whose testimony can be as readily procured.

31 Upon request of the defendant the court shall order that the prosecuting
 32 attorney's motion and official statement be made in writing.

33 (b) The trial may not be postponed if:

- 34 (1) after a motion by the prosecuting attorney because of the
 35 absence of a witness, the defendant admits that the absent witness
 36 would testify to the facts as alleged by the prosecuting attorney in
 37 **his the prosecuting attorney's** official statement in accordance
 38 with subsection (a)(3); or
 39 (2) after a motion by the prosecuting attorney to postpone because
 40 of the absence of written or documentary evidence, the defendant
 41 admits that the written or documentary evidence exists.

42 SECTION 116. IC 35-36-8-3 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) A pretrial hearing
 2 and pretrial conference, if one is necessary, may be held on the
 3 omnibus date or any other date that the court designates prior to the
 4 commencement of trial. The purpose of the pretrial hearing is to:

5 (1) consolidate hearings on pretrial motions and other requests to
 6 the maximum extent practicable;

7 (2) rule on the motions and requests and ascertain whether the
 8 case will be disposed of by guilty plea, jury trial, or bench trial;
 9 and

10 (3) make any other orders appropriate under the circumstances to
 11 expedite the proceedings.

12 (b) At the time of the pretrial hearing as provided under this section,
 13 or at any other time after the filing of the indictment or information and
 14 before the commencement of trial, the court, upon motion of any party
 15 or upon its own motion, may order conferences to consider any matters
 16 that will promote a fair and expeditious trial. The purpose of such a
 17 conference shall be to consider any matters related to the disposition of
 18 the proceedings, including the simplification of the issues to be tried
 19 and the possibility of obtaining admissions of fact and of documents
 20 which will avoid unnecessary proof.

21 (c) At the conclusion of the conference the court shall prepare and
 22 file a memorandum of the matters agreed upon. Any admission made
 23 by the defendant or ~~his~~ **the defendant's** attorney at the conference may
 24 not be used against the defendant unless the admission is reduced to
 25 writing and signed by the defendant and ~~his~~ **the defendant's** attorney.

26 SECTION 117. IC 35-37-1-5 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The following are
 28 good causes for challenge to any person called as a juror in any
 29 criminal trial:

30 (1) That the person was a member of the grand jury that found the
 31 indictment **(before grand juries were abolished)**.

32 (2) That the person has formed or expressed an opinion as to the
 33 guilt or innocence of the defendant. However, such an opinion is
 34 subject to subsection (b).

35 (3) If the state is seeking a death sentence, that the person
 36 entertains such conscientious opinions as would preclude the
 37 person from recommending that the death penalty be imposed.

38 (4) That the person is related within the fifth degree to the person
 39 alleged to be the victim of the offense charged, to the person on
 40 whose complaint the prosecution was instituted, or to the
 41 defendant.

42 (5) That the person has served on a trial jury which was sworn in

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1 the same case against the same defendant, and which jury was
 2 discharged after hearing the evidence, or rendered a verdict which
 3 was set aside.

4 (6) That the person served as a juror in a civil case brought
 5 against the defendant for the same act.

6 (7) That the person has been subpoenaed in good faith as a
 7 witness in the case.

8 (8) That the person is a mentally incompetent person.

9 (9) That the person is an alien.

10 (10) That the person has been called to sit on the jury at the
 11 person's own solicitation or that of another.

12 (11) That the person is biased or prejudiced for or against the
 13 defendant.

14 (12) That the person does not have the qualifications for a juror
 15 prescribed by law.

16 (13) That, from defective sight or hearing, ignorance of the
 17 English language, or other cause, the person is unable to
 18 comprehend the evidence and the instructions of the court.

19 (14) That the person has a personal interest in the result of the
 20 trial.

21 (15) If the person is not a member of the regular panel, that the
 22 person has served on a jury within twelve (12) months
 23 immediately preceding the trial.

24 (b) If a person called as a juror states that the person has formed or
 25 expressed an opinion as to the guilt or innocence of the defendant, the
 26 court or the parties shall proceed to examine the juror on oath as to the
 27 grounds of the juror's opinion. If the juror's opinion appears to have
 28 been founded upon reading newspaper statements, communications,
 29 comments, reports, rumors, or hearsay, and if:

30 (1) the juror's opinion appears not to have been founded upon:

31 (A) conversation with a witness of the transaction;

32 (B) reading reports of a witness' ~~witness's~~ testimony; or

33 (C) hearing a witness testify;

34 (2) the juror states on oath that the juror feels able,
 35 notwithstanding the juror's opinion, to render an impartial verdict
 36 upon the law and evidence; and

37 (3) the court is satisfied that the juror will render an impartial
 38 verdict;

39 the court may admit the juror as competent to serve in the case.

40 SECTION 118. IC 35-37-3-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) If a witness, in
 42 any hearing or trial occurring after an indictment or information has

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1 been filed, refuses to answer any question or produce any item, the
2 court shall remove the jury, if one is present, and immediately conduct
3 a hearing on the witness's refusal. After such a hearing, the court shall
4 decide whether the witness is required to answer the question or
5 produce the item.

6 (b) If the prosecuting attorney has reason to believe that a witness
7 will refuse to answer a question or produce an item during any criminal
8 trial, the prosecuting attorney may submit the question or request to the
9 trial court. The court shall hold a hearing to determine if the witness
10 may refuse to answer the question or produce the item.

11 SECTION 119. IC 35-37-5-1 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this
13 chapter:

14 "State" includes any territory of the United States and the District of
15 Columbia.

16 "Subpoena" includes a summons in any state where a summons is
17 used in lieu of a subpoena.

18 "Witness" shall include a person whose testimony is desired in ~~any~~
19 ~~proceeding or investigation by a grand jury or in~~ a criminal action,
20 prosecution, or proceeding.

21 SECTION 120. IC 35-37-5-7 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. When:

23 (1) a criminal action is pending in a court of record of this state by
24 reason of an ~~indictment information~~ or affidavit; ~~or by reason of~~
25 ~~the commencement of a grand jury proceeding or investigation;~~

26 (2) there is reasonable cause to believe that a person confined in
27 a federal prison or other federal custody, either within or outside
28 this state, possesses information material to such criminal action;
29 and

30 (3) the attendance of such person as a witness in such action is
31 desired by a party;

32 the court may issue a certificate, known as a writ of habeas corpus ad
33 testificandum, addressed to the attorney general of the United States,
34 certifying all such facts and requesting the attorney general of the
35 United States to cause the attendance of such person as a witness in
36 such court for a specified number of days. Such a certificate may be
37 issued upon application of either the state or a defendant demonstrating
38 all facts specified in subdivision (1). Upon issuing such a certificate,
39 the court may deliver it, or cause or authorize it to be delivered, to the
40 attorney general of the United States or to ~~his~~ **the attorney general's**
41 representative authorized to entertain the request.

42 SECTION 121. IC 35-38-4-2 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. Appeals to the
 2 supreme court or to the court of appeals, if the court rules so provide,
 3 may be taken by the state in the following cases:

4 (1) From an order granting a motion to dismiss an ~~indictment or~~
 5 information.

6 (2) From an order or judgment for the defendant, upon ~~his the~~
 7 **defendant's** motion for discharge because of delay of ~~his the~~
 8 **defendant's** trial not caused by ~~his the defendant's~~ act, or upon
 9 ~~his the defendant's~~ plea of former jeopardy, presented and ruled
 10 upon prior to trial.

11 (3) From an order granting a motion to correct errors.

12 (4) Upon a question reserved by the state, if the defendant is
 13 acquitted.

14 (5) From an order granting a motion to suppress evidence, if the
 15 ultimate effect of the order is to preclude further prosecution.

16 (6) From any interlocutory order if the trial court certifies and the
 17 court on appeal or a judge thereof finds on petition that:

18 (A) the appellant will suffer substantial expense, damage, or
 19 injury if the order is erroneous and the determination thereof
 20 is withheld until after judgment;

21 (B) the order involves a substantial question of law, the early
 22 determination of which will promote a more orderly
 23 disposition of the case; or

24 (C) the remedy by appeal after judgment is otherwise
 25 inadequate.

26 SECTION 122. IC 35-40-4-2 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. "Accused" means
 28 that an ~~indictment or~~ information charging a person with a crime or a
 29 petition alleging that a child is a delinquent child has been filed.

30 SECTION 123. IC 35-40-4-7 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. "Public court
 32 proceeding" means a hearing, an argument, or another matter scheduled
 33 by and held before a trial court. The term does not include:

34 (1) a deposition;

35 (2) a lineup; **or**

36 ~~(3) a grand jury proceeding; or~~

37 ~~(4)~~ **(3)** any other procedure not held in the presence of a court
 38 having jurisdiction.

39 SECTION 124. IC 35-41-4-2, AS AMENDED BY P.L.143-2009,
 40 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2012]: Sec. 2. (a) Except as otherwise provided in this section,
 42 a prosecution for an offense is barred unless it is commenced:

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- 1 (1) within five (5) years after the commission of the offense, in
 2 the case of a Class B, Class C, or Class D felony; or
 3 (2) within two (2) years after the commission of the offense, in the
 4 case of a misdemeanor.
- 5 (b) A prosecution for a Class B or Class C felony that would
 6 otherwise be barred under this section may be commenced within one
 7 (1) year after the earlier of the date on which the state:
 8 (1) first discovers evidence sufficient to charge the offender with
 9 the offense through DNA (deoxyribonucleic acid) analysis; or
 10 (2) could have discovered evidence sufficient to charge the
 11 offender with the offense through DNA (deoxyribonucleic acid)
 12 analysis by the exercise of due diligence.
- 13 (c) A prosecution for a Class A felony may be commenced at any
 14 time.
- 15 (d) A prosecution for murder may be commenced:
 16 (1) at any time; and
 17 (2) regardless of the amount of time that passes between:
 18 (A) the date a person allegedly commits the elements of
 19 murder; and
 20 (B) the date the alleged victim of the murder dies.
- 21 (e) A prosecution for the following offenses is barred unless
 22 commenced before the date that the alleged victim of the offense
 23 reaches thirty-one (31) years of age:
 24 (1) IC 35-42-4-3(a) (Child molesting).
 25 (2) IC 35-42-4-5 (Vicarious sexual gratification).
 26 (3) IC 35-42-4-6 (Child solicitation).
 27 (4) IC 35-42-4-7 (Child seduction).
 28 (5) IC 35-46-1-3 (Incest).
- 29 (f) A prosecution for forgery of an instrument for payment of
 30 money, or for the uttering of a forged instrument, under IC 35-43-5-2,
 31 is barred unless it is commenced within five (5) years after the maturity
 32 of the instrument.
- 33 (g) If a complaint ~~indictment~~, or information is dismissed because
 34 of an error, defect, insufficiency, or irregularity, a new prosecution may
 35 be commenced within ninety (90) days after the dismissal even if the
 36 period of limitation has expired at the time of dismissal, or will expire
 37 within ninety (90) days after the dismissal.
- 38 (h) The period within which a prosecution must be commenced does
 39 not include any period in which:
 40 (1) the accused person is not usually and publicly resident in
 41 Indiana or so conceals himself or herself that process cannot be
 42 served;

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- 1 (2) the accused person conceals evidence of the offense, and
- 2 evidence sufficient to charge the person with that offense is
- 3 unknown to the prosecuting authority and could not have been
- 4 discovered by that authority by exercise of due diligence; or
- 5 (3) the accused person is a person elected or appointed to office
- 6 under statute or constitution, if the offense charged is theft or
- 7 conversion of public funds or bribery while in public office.
- 8 (i) For purposes of tolling the period of limitation only, a
- 9 prosecution is considered commenced on the earliest of ~~these~~ **the**
- 10 **following** dates:
- 11 (1) The date of filing of an ~~indictment~~, information or complaint
- 12 before a court having jurisdiction.
- 13 (2) The date of issuance of a valid arrest warrant.
- 14 (3) The date of arrest of the accused person by a law enforcement
- 15 officer without a warrant, if the officer has authority to make the
- 16 arrest.
- 17 (j) A prosecution is considered timely commenced for any offense
- 18 to which the defendant enters a plea of guilty, notwithstanding that the
- 19 period of limitation has expired.
- 20 (k) The following apply to the specified offenses:
- 21 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of
- 22 funeral trust funds) is barred unless commenced within five (5)
- 23 years after the date of death of the settlor (as described in
- 24 IC 30-2-9).
- 25 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse
- 26 of funeral trust funds) is barred unless commenced within five (5)
- 27 years after the date of death of the settlor (as described in
- 28 IC 30-2-10).
- 29 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse
- 30 of funeral trust or escrow account funds) is barred unless
- 31 commenced within five (5) years after the date of death of the
- 32 purchaser (as defined in IC 30-2-13-9).
- 33 (l) A prosecution for an offense under IC 23-14-48-9 is barred
- 34 unless commenced within five (5) years after the earlier of the date on
- 35 which the state:
- 36 (1) first discovers evidence sufficient to charge the offender with
- 37 the offense; or
- 38 (2) could have discovered evidence sufficient to charge the
- 39 offender with the offense by the exercise of due diligence.
- 40 SECTION 125. IC 35-44-2-1 IS AMENDED TO READ AS
- 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) A person who:
- 42 (1) makes a false, material statement under oath or affirmation,

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

6 commits perjury, a Class D felony.

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

8 (1) the ~~indictment~~ or information need not specify which
 9 statement is actually false; and

10 (2) the falsity of a statement may be established sufficient for
 11 conviction, by proof that the defendant made irreconcilably
 12 contradictory statements which are material to the point in
 13 question.

14 SECTION 126. IC 35-44-2-6, AS ADDED BY P.L.171-2011,
 15 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2012]: Sec. 6. (a) A person who:

17 (1) with intent to mislead public servants;

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

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

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

24 (b) It is a defense to a prosecution under this section that the
 25 material statements that are the basis of a prosecution under subsection
 26 (a) concerning the person's identity are accurate or were accurate in the
 27 past.

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

29 (1) the ~~indictment~~ or information need not specify which
 30 statement is actually false; and

31 (2) the falsity of a statement may be established sufficient for
 32 conviction by proof that the defendant made irreconcilably
 33 contradictory statements concerning the person's identity.

34 SECTION 127. IC 35-46-2-2 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. A public servant
 36 having the duty to select or summon persons for ~~grand jury~~ or trial jury
 37 service who knowingly or intentionally fails to select or summon a
 38 person because of color, creed, disability, national origin, race, religion,
 39 or sex commits discrimination in jury selection, a Class A
 40 misdemeanor.

41 SECTION 128. IC 35-47-2-24 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 24. (a) In an

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1 information or indictment brought for the enforcement of any provision
 2 of this chapter, it is not necessary to negate any exemption specified
 3 under this chapter, or to allege the absence of a license required under
 4 this chapter. The burden of proof is on the defendant to prove that ~~he~~
 5 **the defendant** is exempt under section 2 of this chapter, or that ~~he~~ **the**
 6 **defendant** has a license as required under this chapter.

7 (b) Whenever a person who has been arrested or charged with a
 8 violation of section 1 of this chapter presents a valid license to the
 9 prosecuting attorney or establishes that ~~he~~ **the person** is exempt under
 10 section 2 of this chapter, any prosecution for a violation of section 1 of
 11 this chapter shall be dismissed immediately, and all records of an arrest
 12 or proceedings following arrest shall be destroyed immediately.

13 SECTION 129. IC 36-1-17-3, AS ADDED BY P.L.128-2005,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2012]: Sec. 3. (a) An officer or employee of a unit or
 16 municipal corporation who is charged with:

- 17 (1) a crime; or
 18 (2) an infraction;

19 relating to an act that was within the scope of the official duties of the
 20 officer or employee may apply to the fiscal body of the unit or
 21 municipal corporation for reimbursement of reasonable and
 22 customarily charged expenses incurred in the officer's or employee's
 23 defense against those charges, if all charges have been dismissed or the
 24 officer or employee has been found not guilty of all charges. The fiscal
 25 body of the unit or municipal corporation shall reimburse the officer or
 26 employee for reasonable and customarily charged expenses, as
 27 determined by the fiscal body of the unit or municipal corporation,
 28 incurred in the officer's or employee's defense against those charges, if
 29 all charges have been dismissed or the officer or employee has been
 30 found not guilty of all charges.

31 (b) ~~An officer or employee of a unit or municipal corporation who~~
 32 ~~is the target of a grand jury investigation may apply to the fiscal body~~
 33 ~~of the unit or municipal corporation for reimbursement of reasonable~~
 34 ~~and customarily charged expenses incurred by the officer or employee~~
 35 ~~resulting from the grand jury investigation; if the grand jury fails to~~
 36 ~~indict the officer or employee and the acts investigated by the grand~~
 37 ~~jury were within the scope of the official duties of the officer or~~
 38 ~~employee. The fiscal body of the unit or municipal corporation shall~~
 39 ~~reimburse the officer or employee for reasonable and customarily~~
 40 ~~charged expenses; as determined by the fiscal body of the unit or~~
 41 ~~municipal corporation; incurred by the officer or employee as a result~~
 42 ~~of the grand jury investigation; if the grand jury fails to indict the~~

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1 officer or employee:
2 (e) (b) An officer or employee of a unit or municipal corporation
3 who is the defendant in a civil action described in section 2(1)(B)(i)
4 through section 2(1)(B)(viii) of this chapter and brought by a person
5 described in section 2(1)(B) of this chapter that involves an action
6 within the scope of the official duties of the officer or employee may
7 apply to the fiscal body of the unit or municipal corporation for
8 reimbursement of reasonable and customarily charged expenses
9 incurred in the officer's or employee's defense in the civil action. The
10 fiscal body of the unit or municipal corporation shall reimburse the
11 officer or employee for reasonable and customarily charged expenses
12 incurred in the officer's or employee's defense against the civil action
13 if:
14 (1) all claims that formed the basis of the civil action have been
15 dismissed; or
16 (2) a judgment is rendered in favor of the officer or employee on
17 all counts in the civil action.

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