January 20, 2012

SENATE BILL No. 262

DIGEST OF SB 262 (Updated January 17, 2012 12:20 pm - DI 106)

Citations Affected: Numerous provisions throughout the Indiana Code.

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

Effective: July 1, 2012.

Bray

January 4, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
January 19, 2012, reported favorably — Do Pass.

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January 20, 2012

Second Regular Session 117th General Assembly (2012)

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

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

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

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SENATE BILL No. 262

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

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

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

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

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

(A) this chapter;

(B) a rule adopted under this chapter;

(C) IC 4-2-7;

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

(E) IC 4-2-8; or

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

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

production of pertinent books and papers by a subpoena enforceable by the circuit or superior court of the county where the subpoena is to be issued.

(4) Recommend legislation to the general assembly relating to the conduct and ethics of state officers, employees, special state appointees, and persons who have business relationships with agencies.

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

(6) Accept and file information:

(A) voluntarily supplied; and

(B) that exceeds the requirements of this chapter.

(7) Conduct research.

(b) The commission shall do the following:

(1) Act as an advisory body by issuing advisory opinions to interpret this chapter, IC 4-2-7, or the rules adopted under this chapter or IC 4-2-7, upon:

(A) request of:

(i) a state officer or a former state officer;

(ii) an employee or a former employee;

(iii) a person who has or had a business relationship with an agency;

(iv) a special state appointee or former special state appointee; or

(v) the inspector general; or

(B) motion of the commission.

(2) Conduct its proceedings in the following manner:

(A) When a complaint is filed with the commission, the commission may:

(i) reject, without further proceedings, a complaint that the commission considers frivolous or inconsequential;

(ii) reject, without further proceedings, a complaint that the commission is satisfied has been dealt with appropriately by an agency;

(iii) upon the vote of four (4) members, determine that the complaint does not allege facts sufficient to constitute a violation of this chapter or the code of ethics and dismiss the complaint; or

(iv) forward a copy of the complaint to the attorney general, the prosecuting attorney of the county in which the alleged violation occurred, the state board of accounts, a state officer, the appointing authority, or other appropriate person for action, and stay the commission's proceedings pending

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the other action.

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

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

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

(E) A:

(i) complaint that is filed with; or

(ii) proceeding that is held by;

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

(F) The commission may acknowledge:

(i) the existence and scope of an investigation before the finding of probable cause; or

(ii) that the commission did not find probable cause to support an alleged violation.

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

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(H) After the hearing, the commission shall state its findings of fact. If the commission, based on a preponderance of the evidence, finds by a majority vote that the respondent has violated this chapter, IC 4-2-7, IC 4-2-8, or a rule adopted under this chapter, IC 4-2-7, or IC 4-2-8, it shall state its findings in writing in a report, which shall be supported and signed by a majority of the commission members and shall be made public.

(I) If the commission, based on a preponderance of the evidence, finds by a majority vote a violation of this chapter, IC 4-2-7, IC 4-2-8, or a rule adopted under this chapter, IC 4-2-7, or IC 4-2-8, the commission may also take any of the actions provided in section 12 of this chapter.

(J) The report required under clause (H) shall be presented to:

(i) the respondent;

(ii) the appointing authority or state officer of the employee, former employee, or special state appointee;

(iii) the appointing authority or state officer of an agency or office that has a business relationship with the person sanctioned; and

(iv) the governor.

(K) The commission may also forward the report to any of the following:

(i) The prosecuting attorney of each county in which the violation occurred.

(ii) The state board of accounts.

(iii) The state personnel director.

(iv) The attorney general.

(v) A state officer.

(vi) The appointing authority of the state employee or agency that has a business relationship with the person sanctioned.

(vii) Any other appropriate person.

(L) If the commission finds the respondent has not violated a code or statutory provision or a rule adopted under this chapter, IC 4-2-7, or IC 4-2-8, it shall dismiss the charges.

(3) Review all conflict of interest disclosures received by the commission under ~~IC 35-44-1-3,~~ **IC 35-44.1-1-4,** maintain an index of those disclosures, and issue advisory opinions and screening procedures as set forth in section 9 of this chapter.

(c) Notwithstanding IC 5-14-3-4(b)(8)(C), the records of the commission concerning the case of a respondent that are not

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

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

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

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

(3) Testified at a commission proceeding.

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

(1) did not act in good faith; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Initiate, supervise, and coordinate investigations.

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

(3) Receive complaints alleging the following:

(A) A violation of the code of ethics.

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

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

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

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

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

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

(4) If the inspector general has reasonable cause to believe that a crime has occurred or is occurring, report the suspected crime to:

(A) the governor; and

(B) appropriate state or federal law enforcement agencies and prosecuting authorities having jurisdiction over the matter.

(5) Adopt rules under IC 4-22-2 to implement IC 4-2-6 and this chapter.

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(6) Adopt rules under IC 4-22-2 and section 5 of this chapter to implement a code of ethics.

(7) Ensure that every:

(A) employee;

(B) state officer;

(C) special state appointee; and

(D) person who has a business relationship with an agency;

is properly trained in the code of ethics.

(8) Provide advice to an agency on developing, implementing, and enforcing policies and procedures to prevent or reduce the risk of fraudulent or wrongful acts within the agency.

(9) Recommend legislation to the governor and general assembly to strengthen public integrity laws, including the code of ethics for state officers, employees, special state appointees, and persons who have a business relationship with an agency, including whether additional specific state officers, employees, or special state appointees should be required to file a financial disclosure statement under IC 4-2-6-8.

(10) Annually submit a report to the legislative council detailing the inspector general's activities. The report must be in an electronic format under IC 5-14-6.

(11) Prescribe and provide forms for statements required to be filed under IC 4-2-6 or this chapter.

(12) Accept and file information that:

(A) is voluntarily supplied; and

(B) exceeds the requirements of this chapter.

(13) Inspect financial disclosure forms.

(14) Notify persons who fail to file forms required under IC 4-2-6 or this chapter.

(15) Develop a filing, a coding, and an indexing system required by IC 4-2-6 and IC 35-44-1-3.

(16) Prepare interpretive and educational materials and programs.

SECTION 5. IC 4-6-2-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1.1. The attorney general has concurrent jurisdiction with the prosecuting attorney in the prosecution of the following:

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

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

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

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

SECTION 7. IC 4-13-1.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. A person who **interferes with the ombudsman is subject to criminal prosecution under IC 35-44.2-1-4.**

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

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

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

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

~~commits a Class A misdemeanor.~~

SECTION 8. IC 4-13-4.1-4 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 4. (a) Neither the commissioner of the department of administration nor any employee of his department may be financially interested or have any personal beneficial interest in the purchase of any printing, lithographing, paper, binding, stationery, printing materials, or office supplies.~~

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

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

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

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

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~~investigation;~~

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

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

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

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

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

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

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

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

(4) the misuse of public resources;

to a supervisor or to the inspector general.

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

(1) be dismissed from employment;

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

(3) be transferred or reassigned;

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

(5) be demoted.

(c) Notwithstanding subsections (a) and (b), an employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employee's appointing authority, the appointing authority's designee, or the ethics commission. However, any state employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under the procedure as set

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forth in ~~IC 4-15-2-34 through IC 4-15-2-35.5.~~ **IC 4-15-2.2-42.**

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

SECTION 11. IC 4-21.5-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) A person who:

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

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

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

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

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

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

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

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

SECTION 12. IC 4-33-4.5-1, AS ADDED BY P.L.170-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) A gaming agent is vested with full police powers and duties to enforce this article.

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

(c) In addition to the powers and duties vested under subsection (a), a gaming agent may act as an officer for the arrest of offenders who

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violate the laws of Indiana if the gaming agent reasonably believes that a crime has been, is being, or is about to be committed or attempted in the gaming agent's presence.

SECTION 13. IC 5-4-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. The bonds prescribed by IC 5-4-1-18 cover the faithful performance of the duties of the officer or employee, including the duty to comply with ~~IC 35-44-1-2~~ **IC 35-44.1-1-1** and the duty to account properly for all monies and property received by virtue of his position or employment.

SECTION 14. IC 5-10.4-3-16, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. A person who recklessly violates

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

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

SECTION 15. IC 5-11-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A person who ~~knowingly~~ violates section 1 of this chapter ~~commits a Class D felony.~~ **is subject to criminal prosecution under IC 35-44.2-2-3.**

SECTION 16. IC 5-13-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Every public officer who receives or distributes public funds shall:

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

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

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

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

SECTION 17. IC 5-13-14-3, AS AMENDED BY P.L.107-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A public servant who **violates the depository duties in this article is subject to criminal prosecution under IC 35-44.2-2-1.** ~~knowingly or intentionally:~~

~~(1) fails to deposit public funds; or~~

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

~~except in the manner prescribed in this article, commits a Class A~~

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

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

SECTION 19. IC 5-14-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency, except as provided by IC 4-15-10, who knowingly or intentionally discloses information classified as confidential by state statute**, including information declared confidential under section 4(a) through 4(b) of this chapter,** commits a Class A misdemeanor.

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

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

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

SECTION 20. IC 5-16-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. A consultant who files a false disclosure under this chapter is subject to the penalties for perjury under ~~IC 35-44-2-1.~~ **IC 35-44.1-2-1.**

SECTION 21. IC 5-17-1-5 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 5. A person making any such bid, offer, proposal, estimate or contract to sell or lease, who knowingly violates this chapter commits a Class D felony and may not be a party to or benefit from any contract with a public body in the state for two (2) years from the date of his conviction.~~

SECTION 22. IC 5-17-1-6 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 6. Any person, officer, board, commissioner, department~~

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~~commission or purchasing agent who knowingly violates any of the terms of this chapter commits a Class D felony.~~

SECTION 23. IC 7.1-2-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) An enforcement officer is vested with full police powers and duties to enforce:

(1) the provisions of this title;

(2) any other law of this state relating to alcohol or alcoholic beverages; and

(3) tobacco laws, including tobacco vending machines.

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

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

SECTION 24. IC 9-30-4-6, AS AMENDED BY P.L.100-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) Whenever the bureau suspends or revokes the current driver's license upon receiving a record of the conviction of a person for any offense under the motor vehicle laws not enumerated under subsection (b), the bureau may also suspend any of the certificates of registration and license plates issued for any motor vehicle registered in the name of the person so convicted. However, the bureau may not suspend the evidence of registration, unless otherwise required by law, if the person has given or gives and maintains during the three (3) years following the date of suspension or revocation proof of financial responsibility in the future in the manner specified in this section.

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

(1) Manslaughter or reckless homicide resulting from the operation of a motor vehicle.

(2) Perjury or knowingly making a false affidavit to the department under this chapter or any other law requiring the registration of motor vehicles or regulating motor vehicle operation upon the highways.

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(3) A felony under Indiana motor vehicle laws or felony in the commission of which a motor vehicle is used.

(4) Three (3) charges of criminal recklessness involving the use of a motor vehicle within the preceding twelve (12) months.

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

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

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

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

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

(2) Subject to section 6.5 of this chapter, upon conviction of an offense described in subsection (b)(1), for a fixed period of not less than two (2) years and not more than five (5) years, to be fixed by the bureau based upon recommendation of the court entering a conviction. A new or reinstated license may not be issued to the person unless that person, within the three (3) years following the expiration of the suspension or revocation, gives and maintains in force at all times during the effective period of a new or reinstated license proof of financial responsibility in the future in the manner specified in this chapter. However, the liability of the insurance carrier under a motor vehicle liability

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policy that is furnished for proof of financial responsibility in the future as set out in this chapter becomes absolute whenever loss or damage covered by the policy occurs, and the satisfaction by the insured of a final judgment for loss or damage is not a condition precedent to the right or obligation of the carrier to make payment on account of loss or damage, but the insurance carrier has the right to settle a claim covered by the policy. If the settlement is made in good faith, the amount shall be deductive from the limits of liability specified in the policy. A policy may not be canceled or annulled with respect to a loss or damage by an agreement between the carrier and the insured after the insured has become responsible for the loss or damage, and a cancellation or annulment is void. The policy may provide that the insured or any other person covered by the policy shall reimburse the insurance carrier for payment made on account of any loss or damage claim or suit involving a breach of the terms, provisions, or conditions of the policy. If the policy provides for limits in excess of the limits specified in this chapter, the insurance carrier may plead against any plaintiff, with respect to the amount of the excess limits of liability, any defenses that the carrier may be entitled to plead against the insured. The policy may further provide for prorating of the insurance with other applicable valid and collectible insurance. An action does not lie against the insurance carrier by or on behalf of any claimant under the policy until a final judgment has been obtained after actual trial by or on behalf of any claimant under the policy.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A conviction upon a plea of guilty.

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

(A) no sentence is imposed; or

(B) a sentence is suspended.

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

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

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

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

SECTION 25. IC 10-16-19-1, AS ADDED BY P.L.10-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2012]: Sec. 1. (a) This section does not apply to an employee of the state subject to IC 4-15-10-8.

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

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

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

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

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

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

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

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

(1) Payment of back wages.

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

(3) Fringe benefits wrongly denied or withdrawn.

(4) Seniority rights wrongly denied or withdrawn.

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

(f) A public servant (as defined in IC 35-41-1-24) who permits or authorizes an employee of a political subdivision under the supervision of the public servant to be absent from employment as set forth in subsection (c) is not considered to have committed a violation of ~~IC 35-44-2-4(b).~~ **IC 35-44.1-1-3(b).**

SECTION 26. IC 11-12-3.7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. As used in this chapter, "violent offense" means one (1) or more of the following

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offenses:

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

SECTION 27. IC 13-18-10-1.4, AS ADDED BY P.L.127-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2012]: Sec. 1.4. (a) Subject to subsection (b), an application for approval under section 1 of this chapter must include for each responsible party the disclosure statement referred to in subsection (c) if either or both of the following apply:

(1) State or federal officials at any time alleged that the responsible party committed acts or omissions that constituted a material violation of state or federal environmental law.

(2) Foreign officials at any time alleged that the responsible party committed acts or omissions that:

(A) constituted a material violation of foreign environmental law; and

(B) would have constituted a material violation of state or federal environmental law if the act or omission had occurred in the United States.

(b) Subsection (a):

(1) applies only if the acts or omissions alleged under subsection (a)(1) or (a)(2) presented a substantial endangerment to human health or the environment; and

(2) does not apply to a renewal of an approval under section 1 of this chapter that does not involve construction or expansion as described in section 1 of this chapter.

(c) A responsible party referred to in subsection (a) must make reasonable efforts to provide complete and accurate information to the department in a disclosure statement that includes the following:

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

(2) A description of the responsible party's experience in managing the environmental aspects of the type of facility that will be managed under the permit.

(3) A description of all pending administrative, civil, or criminal enforcement actions filed in the United States against the responsible party alleging any acts or omissions that:

(A) constitute a material violation of state or federal environmental law; and

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

(4) A description of all pending administrative, civil, or criminal enforcement actions filed in a foreign country against the responsible party alleging any acts or omissions that:

(A) constitute a material violation of foreign environmental law;

(B) would have constituted a material violation of state or federal environmental law if the act or omission on which the

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action is based had occurred in the United States; and

(C) present a substantial endangerment to human health or the environment.

(5) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions in the United States resolved against the responsible party within the five (5) years that immediately precede the date of the application involving acts or omissions that:

(A) constitute a material violation of federal or state environmental law; and

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

(6) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions in a foreign country resolved against the responsible party within the five (5) years that immediately precede the date of the application involving acts or omissions that:

(A) constitute a material violation of foreign environmental law;

(B) would have constituted a material violation of state or federal environmental law if the act or omission on which the action is based had occurred in the United States; and

(C) present a substantial endangerment to human health or the environment.

(7) Identification of all state, federal, or foreign environmental permits:

(A) applied for by the responsible party that were denied; or

(B) previously held by the responsible party that were revoked.

(d) A disclosure statement submitted under subsection (c):

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under ~~IC 35-44-2-1.~~ **IC 35-44.1-2-1.**

(e) The department may investigate and verify the information set forth in a disclosure statement submitted under this section.

SECTION 28. IC 13-19-4-3, AS AMENDED BY P.L.114-2008, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) In a disclosure statement required by section 2 of this chapter, the applicant or responsible party shall set forth the following information:

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

(2) A description of the applicant's or responsible party's

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experience in managing the type of waste that will be managed under the permit.

(3) A description of all civil and administrative complaints against the applicant or responsible party for the violation of any state or federal environmental protection law that:

(A) have resulted in a fine or penalty of more than ten thousand dollars ($10,000) within five (5) years before the date of the submission of the application; or

(B) allege an act or omission that:

(i) constitutes a material violation of the state or federal environmental protection law; and

(ii) presented a substantial endangerment to the public health or the environment.

(4) A description of all pending criminal complaints alleging the violation of any state or federal environmental protection law that have been filed against the applicant or responsible party within five (5) years before the date of submission of the application.

(5) A description of all judgments of criminal conviction entered against the applicant or responsible party within five (5) years before the date of submission of the application for the violation of any state or federal environmental protection law.

(6) A description of all judgments of criminal conviction of a felony constituting a crime of moral turpitude under the laws of any state or the United States that are entered against the applicant or responsible party within five (5) years before the date of submission of the application.

(7) The location of all facilities at which the applicant or responsible party manages the type of waste that would be managed under the permit to which the application refers.

(b) A disclosure statement submitted under section 2(1) of this chapter:

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under ~~IC 35-44-2-1.~~ **IC 35-44.1-2-1.**

SECTION 29. IC 13-20-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. Before an original permit for the construction or operation of a landfill may be granted, the applicant or a person authorized to act for the applicant under this section must submit a statement in which the applicant or authorized person swears or affirms, subject to the penalty for perjury set forth in ~~IC 35-44-2-1,~~ **IC 35-44.1-2-1,** that, to the best of the applicant's or authorized person's knowledge, there are no unsatisfied and

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nonappealable judgments requiring the payment of money by the applicant.

SECTION 30. IC 14-34-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) An employee of the department who has a duty under this article may not have a direct or an indirect financial interest in a surface coal mining operation.

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

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

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

SECTION 31. IC 16-19-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The state health commissioner is governed in the performance of the state health commissioner's official duties by IC 4-2-6 and ~~IC 35-44-1-3~~ **IC 35-44.1-1-4** concerning ethics and conflict of interest.

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

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

(1) be a resident voter of the school city; and

(2) have been a resident of the school city for at least one (1) year immediately preceding the member's election.

(b) A board member may not:

(1) serve in an elective or appointive office under the board or under the government of the civil city while serving on the board; or

(2) knowingly have a pecuniary interest as described in ~~IC 35-44-1-3(g)~~ **IC 35-44.1-1-4** in a contract or purchase with the school city in which the member is elected.

If, at any time after a member is elected to the board, the board member knowingly acquires a pecuniary interest in a contract or purchase with

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the school city, the member is disqualified to continue as a member of the board, and a vacancy in the office is created.

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

(1) the member possesses all the qualifications required by this chapter for membership on the board;

(2) the member will honestly and faithfully discharge the duties of office;

(3) the member will not, while serving as a member of the board, become interested, directly or indirectly, in any contract with or claim against the school city, except as authorized by law; ~~and~~

(4) in the performance of official duties as a member of the board, including the selection of the board's officers, agents, and employees, the member will not be influenced by any consideration of politics or religion; and

(5) the member will be controlled in the selection of officers, agents, and employees only by considerations of merit, fitness, and qualification.

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

SECTION 33. IC 21-9-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. Notwithstanding any other law, it is not a conflict of interest or violation of any other law for a person to serve as a member of the authority. However, a member shall disclose a conflict of interest relating to actions of the authority as required and in a manner provided by ~~IC 35-44-1-3.~~ **IC 35-44.1-1-4.**

SECTION 34. IC 23-2-5-11, AS AMENDED BY P.L.114-2010, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) The commissioner may do the following:

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

(2) Make investigations and examinations:

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

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

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

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

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

(6) Hold and conduct hearings.

(7) Hear evidence.

(8) Conduct inquiries with or without hearings.

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

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

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

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

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

(14) Order that each witness appearing under the commissioner's order to testify before the commissioner shall receive the fees and mileage allowances provided for witnesses in civil cases.

(15) Provide interpretive opinions or issue determinations that the commissioner will not institute a proceeding or an action under this chapter against a specified person for engaging in a specified act, practice, or course of business if the determination is consistent with this chapter. The commissioner may adopt rules

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to establish fees for individuals requesting an interpretive opinion or a determination under this subdivision. A person may not request an interpretive opinion or a determination concerning an activity that:

(A) occurred before; or

(B) is occurring on;

the date the opinion or determination is requested.

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

(A) processing applications for:

(i) licenses under this chapter; and

(ii) renewals of licenses under this chapter; and

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

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

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

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

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

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

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

(d) If:

(1) a person disobeys any lawful:

(A) subpoena issued under this chapter; or

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

(2) a witness refuses to:

(A) appear when subpoenaed;

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

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

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

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

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

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

(A) submit information to; or

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(B) participate in;

the multistate automated licensing system and repository.

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

SECTION 35. IC 23-19-6-2, AS ADDED BY P.L.27-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The commissioner may:

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

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

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

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

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

(1) hold the person in contempt;

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

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

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

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

(f) At the request of the securities regulator of another state or a foreign jurisdiction, the commissioner may provide assistance if the requesting regulator states that it is conducting an investigation to determine whether a person has violated, is violating, or is about to

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violate a law or rule of the other state or foreign jurisdiction relating to securities matters that the requesting regulator administers or enforces. The commissioner may provide the assistance by using the authority to investigate and the powers conferred by this section as the commissioner determines is necessary or appropriate. The assistance may be provided without regard to whether the conduct described in the request would also constitute a violation of this article or other law of this state if occurring in this state. In deciding whether to provide the assistance, the commissioner may consider whether the requesting regulator is permitted and has agreed to provide assistance reciprocally within its state or foreign jurisdiction to the commissioner on securities matters when requested; whether compliance with the request would violate or prejudice the public policy of this state; and the availability of resources and employees of the commissioner to carry out the request for assistance.

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

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

SECTION 36. IC 25-36.5-1-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3.5. (a) A timber buyer who intends to cease doing business as a timber buyer in Indiana and who seeks the return of a deposit of cash or a certificate of deposit that the timber buyer submitted to the department under section 3(b) of this chapter must submit the following to the department:

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

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

(b) To obtain the return of a deposit of cash or a certificate of deposit under this section, a timber buyer must execute an affidavit stating under the penalty for perjury set forth in ~~IC 35-44.2-1~~ **IC 35-44.1-2-1** that the timber buyer:

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

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

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

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

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

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

(2) Indicate the date of the request.

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

(d) On the date set forth under subsection (c)(3) in the notice given by the department, the department shall return the cash or certificate of deposit to the timber buyer unless the department has obtained information indicating that a statement set forth in the timber buyer's affidavit is false.

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

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

(2) Attempted murder (IC 35-41-5-1).

(3) Voluntary manslaughter (IC 35-42-1-3).

(4) Involuntary manslaughter (IC 35-42-1-4).

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

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

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

(c) The notification under subsection (b) must occur within forty-eight (48) hours after the child is taken into custody.

(d) A law enforcement agency may not disclose information that is confidential under state or federal law to a school or school district

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under this section.

SECTION 38. IC 34-28-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. A person who is dismissed from employment in violation of ~~IC 35-44-3-10~~ **IC 35-44.1-2-11** may bring a civil action, within ninety (90) days of the dismissal, against the employer who dismissed the person:

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

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

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

SECTION 39. IC 34-46-2-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 32. ~~IC 35-44-3-4~~ **IC 35-44.1-2-2** (Concerning inapplicability of obstruction of justice provisions for persons who qualify for certain privileges).

SECTION 40. IC 35-33.5-1-3, AS AMENDED BY P.L.3-2008, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. "Designated offense" means the following:

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

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

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

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

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

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

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

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

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

(10) An offense that relates to a weapon of mass destruction (as defined in IC 35-41-1-29.4).

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

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

SECTION 41. IC 35-34-1-2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.4. (a) If an indictment, information, pleading, motion, petition, probable cause affidavit, or other document is required to be verified or sworn under oath before it is submitted to the court in a criminal action, the

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document meets the requirements of the law as a sworn document if the following form or a substantially similar form is used:

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

Signed _____

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

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

SECTION 42. IC 35-34-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) Upon request by the prosecuting attorney, the court shall grant use immunity to a witness before the grand jury. The court shall instruct the witness by written order or in open court that any evidence the witness gives before the grand jury, or evidence derived from that evidence, may not be used in any criminal prosecution against that witness, unless the evidence is volunteered by the witness or is not responsive to a question by the grand jury or the prosecutor. The court shall then instruct the witness that ~~he~~ **the witness** must answer the questions asked and produce the items requested.

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

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

SECTION 43. IC 35-37-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Upon request of the prosecuting attorney, the court shall grant use immunity to a witness. The court shall instruct the witness, by written order or in open court, that any evidence the witness gives, or evidence derived from that evidence, may not be used in any criminal proceeding against that witness, unless the evidence is volunteered by the witness or is not responsive to a question by the prosecuting attorney. The court shall instruct the witness that ~~he~~ **the witness** must answer the questions asked and produce the items requested.

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

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

SECTION 44. IC 35-38-1-7.1, AS AMENDED BY P.L.119-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7.1. (a) In determining what sentence to impose for a crime, the court may consider the following aggravating circumstances:

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

(A) significant; and

(B) greater than the elements necessary to prove the commission of the offense.

(2) The person has a history of criminal or delinquent behavior.

(3) The victim of the offense was less than twelve (12) years of age or at least sixty-five (65) years of age at the time the person committed the offense.

(4) The person:

(A) committed a crime of violence (IC 35-50-1-2); and

(B) knowingly committed the offense in the presence or within hearing of an individual who:

(i) was less than eighteen (18) years of age at the time the person committed the offense; and

(ii) is not the victim of the offense.

(5) The person violated a protective order issued against the person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or IC 34-4-5.1 before their repeal), a workplace violence restraining order issued against the person under IC 34-26-6, or a no contact order issued against the person.

(6) The person has recently violated the conditions of any probation, parole, pardon, community corrections placement, or pretrial release granted to the person.

(7) The victim of the offense was:

(A) a person with a disability (as defined in IC 27-7-6-12), and the defendant knew or should have known that the victim was a person with a disability; or

(B) mentally or physically infirm.

(8) The person was in a position having care, custody, or control of the victim of the offense.

(9) The injury to or death of the victim of the offense was the result of shaken baby syndrome (as defined in IC 16-41-40-2).

(10) The person threatened to harm the victim of the offense or a

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witness if the victim or witness told anyone about the offense.

(11) The person:

(A) committed trafficking with an inmate under ~~IC 35-44-3-9;~~ **IC 35-44.1-3-5;** and

(B) is an employee of the penal facility.

(b) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:

(1) The crime neither caused nor threatened serious harm to persons or property, or the person did not contemplate that it would do so.

(2) The crime was the result of circumstances unlikely to recur.

(3) The victim of the crime induced or facilitated the offense.

(4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.

(5) The person acted under strong provocation.

(6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.

(7) The person is likely to respond affirmatively to probation or short term imprisonment.

(8) The character and attitudes of the person indicate that the person is unlikely to commit another crime.

(9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.

(10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.

(11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the victim of the crime for which the person was convicted.

(c) The criteria listed in subsections (a) and (b) do not limit the matters that the court may consider in determining the sentence.

(d) A court may impose any sentence that is:

(1) authorized by statute; and

(2) permissible under the Constitution of the State of Indiana;

regardless of the presence or absence of aggravating circumstances or mitigating circumstances.

SECTION 45. IC 35-38-2.5-4.7, AS AMENDED BY P.L.31-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2012]: Sec. 4.7. As used in this chapter, "violent offender" means a person who is:

(1) convicted of an offense or attempted offense under IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, ~~IC 35-44-3-5,~~ **IC 35-44.1-3-5,** IC 35-45-10-5, IC 35-47-5-1 (repealed), or IC 35-47.5-5;

(2) charged with an offense or attempted offense listed in IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-42-4, IC 35-43-1-1, ~~IC 35-44-3-5,~~ **IC 35-44.1-3-5,** IC 35-45-10-5, IC 35-46-1-3, IC 35-47-5-1 (repealed), or IC 35-47.5-5; or

(3) a security risk as determined under section 10 of this chapter.

SECTION 46. IC 35-38-2.5-6, AS AMENDED BY P.L.1-2007, SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. An order for home detention of an offender under section 5 of this chapter must include the following:

(1) A requirement that the offender be confined to the offender's home at all times except when the offender is:

(A) working at employment approved by the court or traveling to or from approved employment;

(B) unemployed and seeking employment approved for the offender by the court;

(C) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the offender by the court;

(D) attending an educational institution or a program approved for the offender by the court;

(E) attending a regularly scheduled religious service at a place of worship; or

(F) participating in a community work release or community restitution or service program approved for the offender by the court.

(2) Notice to the offender that violation of the order for home detention may subject the offender to prosecution for the crime of escape under ~~IC 35-44-3-5.~~ **IC 35-44.1-3-4.**

(3) A requirement that the offender abide by a schedule prepared by the probation department, or by a community corrections program ordered to provide supervision of the offender's home detention, specifically setting forth the times when the offender may be absent from the offender's home and the locations the offender is allowed to be during the scheduled absences.

(4) A requirement that the offender is not to commit another crime during the period of home detention ordered by the court.

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(5) A requirement that the offender obtain approval from the probation department or from a community corrections program ordered to provide supervision of the offender's home detention before the offender changes residence or the schedule described in subdivision (3).

(6) A requirement that the offender maintain:

(A) a working telephone in the offender's home; and

(B) if ordered by the court, a monitoring device in the offender's home or on the offender's person, or both.

(7) A requirement that the offender pay a home detention fee set by the court in addition to the probation user's fee required under IC 35-38-2-1 or IC 31-40. However, the fee set under this subdivision may not exceed the maximum fee specified by the department of correction under IC 11-12-2-12.

(8) A requirement that the offender abide by other conditions of probation set by the court under IC 35-38-2-2.3.

(9) A requirement that an offender:

(A) who is convicted of an offense described in IC 10-13-6-10;

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

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

provide a DNA sample.

SECTION 47. IC 35-44 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Offenses Against Public Administration).

SECTION 48. IC 35-44.1 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

ARTICLE 44.1. OFFENSES AGAINST GENERAL PUBLIC ADMINISTRATION

Chapter 1. General Public Administration

Sec. 1. A public servant who knowingly or intentionally:

(1) commits an offense in the performance of the public servant's official duties;

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

(3) acquires or divests himself or herself of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has

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not been made public is contemplated; or

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

commits official misconduct, a Class D felony.

Sec. 2. (a) A person who:

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

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

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

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

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

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

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

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(A) withhold any testimony, information, document, or thing;

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

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

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

(A) withhold any testimony, information, document, or thing;

(B) avoid legal process summoning the witness or informant to testify or supply evidence; or

(C) absent himself or herself from any proceeding or investigation to which the witness or informant has been legally summoned; or

(9) confers or offers or agrees to confer any property on an individual for:

(A) casting a ballot or refraining from casting a ballot; or

(B) voting for a political party, for a candidate, or for or against a public question;

in an election described in IC 3-5-1-2 or at a convention of a political party authorized under IC 3;

commits bribery, a Class C felony.

(b) It is not a defense that the person whom the accused person sought to control was not qualified to act in the desired way.

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

(1) hires an employee for the governmental entity that the public servant serves; and

(2) fails to assign to the employee any duties, or assigns to the employee any duties not related to the operation of the governmental entity;

commits ghost employment, a Class D felony.

(b) A public servant who knowingly or intentionally assigns to an employee under the public servant's supervision any duties not related to the operation of the governmental entity that the public servant serves commits ghost employment, a Class D felony.

(c) A person employed by a governmental entity who, knowing that the person has not been assigned any duties to perform for the entity, accepts property from the entity commits ghost employment, a Class D felony.

(d) A person employed by a governmental entity who knowingly

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or intentionally accepts property from the entity for the performance of duties not related to the operation of the entity commits ghost employment, a Class D felony.

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

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

(1) that do not:

(A) promote religion;

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

(C) attempt to influence elections to public office;

(2) for the benefit of:

(A) another governmental entity; or

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

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

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

(A) is in writing;

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

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

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

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

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

(A) The spouse of a public servant.

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

(i) unemancipated; and

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

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

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

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

(A) the public servant; or

(B) a dependent of the public servant who:

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

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

(b) A public servant who knowingly or intentionally:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony.

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

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

(A) services provided as a public servant; or

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

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

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

(4) The public servant:

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

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

(5) A public servant under the jurisdiction of the state ethics

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

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

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

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

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

(B) appointed by an elected public servant;

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

(D) elected; or

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

(7) The public servant is a member of the governing board of a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1.

(d) A disclosure must:

(1) be in writing;

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

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

(4) be affirmed under penalty of perjury;

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

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

(A) the state board of accounts; and

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

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

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

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

(b) A person who knowingly or intentionally:

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

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

(A) the contract; or

(B) the purchase;

commits profiteering from public service, a Class D felony.

(c) This section does not apply to negotiations or other activities related to an economic development grant, loan, or loan guarantee.

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

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

(1) the person was screened from any participation in the

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contract or purchase;

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

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

Chapter 2. Interference with General Government Operations

Sec. 1. (a) A person who:

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

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

commits perjury, a Class D felony.

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

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

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

Sec. 2. (a) A person who:

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

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

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

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

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

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

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

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

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

(4) makes, presents, or uses a false record, document, or thing with intent that the record, document, or thing, material to the point in question, appear in evidence in an official proceeding or investigation to mislead a public servant; or

(5) communicates, directly or indirectly, with a juror otherwise than as authorized by law, with intent to influence the juror regarding any matter that is or may be brought before the juror;

commits obstruction of justice, a Class D felony.

(b) Subdivision (a)(2)(A) does not apply to:

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

(2) a person who, as:

(A) an attorney;

(B) a physician;

(C) a member of the clergy; or

(D) a husband or wife;

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

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

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

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

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

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

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

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

(d) A person who:

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

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

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

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

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

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

(B) knowing the complaint to be false; or

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

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

Sec. 4. (a) A person who:

(1) with intent to mislead public servants;

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

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

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

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

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

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

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

Sec. 5. (a) A person not standing in the relation of parent, child, or spouse to another person who has committed a crime or is a fugitive from justice who, with intent to hinder the apprehension

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or punishment of the other person, harbors, conceals, or otherwise assists the person commits assisting a criminal, a Class A misdemeanor. However, the offense is:

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

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

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

(1) has not been prosecuted for the offense;

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

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

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

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

(1) a law enforcement officer; or

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

commits a Class D felony.

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

(1) possesses a police radio;

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

(3) possesses or uses a police radio:

(A) while committing a crime;

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

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

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

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

(1) a governmental entity;

(2) a regularly employed law enforcement officer;

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

(4) a public service or utility company whose vehicles are used in emergency service;

(5) a person who has written permission from the chief

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executive officer of a law enforcement agency to possess a police radio;

(6) a person who holds an amateur radio license issued by the Federal Communications Commission if the person is not transmitting over a frequency assigned for police emergency purposes;

(7) a person who uses a police radio only in the person's dwelling or place of business;

(8) a person:

(A) who is regularly engaged in newsgathering activities;

(B) who is employed by a newspaper qualified to receive legal advertisements under IC 5-3-1, a wire service, or a licensed commercial or public radio or television station; and

(C) whose name is furnished by the person's employer to the chief executive officer of a law enforcement agency in the county in which the employer's principal office is located;

(9) a person engaged in the business of manufacturing or selling police radios; or

(10) a person who possesses or uses a police radio during the normal course of the person's lawful business.

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

(1) can be installed, maintained, or operated in a vehicle; or

(2) can be operated while it is being carried by an individual.

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

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

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

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

without the written permission of the chief executive officer of the law enforcement agency commits unlawful manufacture or sale of

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a police or fire insignia, a Class A misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) It is no defense that judgment was entered in favor of the person in the infraction or ordinance proceeding or that the person was acquitted of the misdemeanor for which the person was summoned to appear.

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Sec. 11. A person who knowingly or intentionally:
(1) dismisses an employee;
(2) deprives an employee of employment benefits; or
(3) threatens such a dismissal or deprivation;
because the employee has received or responded to a summons, served as a juror, or attended court for prospective jury service commits interference with jury service, a Class B misdemeanor.

Sec. 12. A person who knowingly or intentionally:
(1) dismisses an employee;
(2) deprives an employee of employment benefits; or
(3) threatens such a dismissal or deprivation;
because the employee has received or responded to a subpoena in a criminal proceeding commits interference with witness service, a Class B misdemeanor.

Chapter 3. Detention

Sec. 1. (a) A person who knowingly or intentionally:
(1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;
(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or
(3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;
commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:
(1) Class D felony if:
(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or
(B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on or otherwise causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;
(2) Class C felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person;

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

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

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

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

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

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

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

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

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

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

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

(3) subsection (b)(3);

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

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

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following:

(1) A person employed by:

(A) the department of correction;

(B) a law enforcement agency;

(C) a probation department;

(D) a county jail; or

(E) a circuit, superior, county, probate, city, or town court;

who is required to carry a firearm in performance of the person's official duties.

(2) A law enforcement officer.

(b) A person who:

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

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

(A) without the consent of the officer; and

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

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

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

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

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

(c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Class D felony. However, the offense is a Class C felony if, while committing it, the person draws or uses a deadly

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weapon or inflicts bodily injury on another person.

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

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

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

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

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

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

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

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

(A) a controlled substance; or

(B) a deadly weapon;

commits trafficking with an inmate, a Class A misdemeanor.

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

(1) the department of correction; or

(2) a penal facility;

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

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

(1) a controlled substance;

(2) a deadly weapon; or

(3) a cellular telephone or other wireless or cellular communications device.

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

(1) Alcohol.

(2) A cigarette or tobacco product.

(3) A controlled substance.

(4) An item that may be used as a weapon.

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

(1) An adult or juvenile pretrial detainee.

(2) A person serving an intermittent term of imprisonment or detention.

(3) A person serving a term of imprisonment or detention as:

(A) a condition of probation;

(B) a condition of a community corrections program;

(C) part of a community transition program;

(D) part of a reentry court program;

(E) part of a work release program; or

(F) part of a community based program that is similar to a program described in clauses (A) through (E).

(4) A person who has escaped from incarceration or walked away from secure detention.

(5) A person on temporary leave (as described in IC 11-10-9) or temporary release (as described in IC 11-10-10).

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

(1) delivers contraband to an inmate outside a facility; or

(2) places contraband in a location where an inmate outside a facility could obtain the contraband;

commits trafficking with an inmate outside a facility, a Class A misdemeanor. However, the offense is a Class D felony if the contraband is an item described in subsection (a)(3), and a Class C felony if the contraband is an item described in subsection (a)(4).

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

(1) is used; or

(2) is intended to be used;

in a manner that is readily capable of causing bodily injury

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commits a Class C felony. However, the offense is a Class B felony if the device, equipment, chemical substance, or other material is a deadly weapon.

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

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

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

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

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

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

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

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

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

(2) subject to lawful detention;

commits sexual misconduct, a Class B felony.

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

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

Chapter 4. Firefighting and Emergency Services

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

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

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(2) a fire company that has entered into a mutual aid agreement with the fire company having jurisdiction over an emergency incident area;

who has been dispatched by the local fire department having jurisdiction over the particular emergency incident area.

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

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

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

whichever is greater.

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

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

(1) Outer fire retardant clothing and headgear.

(2) Fire gloves.

(3) Self contained breathing apparatus.

(4) Emergency medical services protective gear.

(5) Hazardous materials protective gear.

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

Sec. 6. A firefighter who:

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

(2) enters an emergency incident area; and

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

commits a Class C infraction.

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

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suffers bodily injury (as defined in IC 35-41-1-4).

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

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

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

Chapter 5. Illegal Alien Offenses

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

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

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

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

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

(5) A person who:

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

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

(6) A provider that:

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

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

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

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

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

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Sec. 3. (a) A person who knowingly or intentionally:
(1) transports; or
(2) moves;
an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of the law commits transporting an illegal alien, a Class A misdemeanor.

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

Sec. 4. (a) A person who knowingly or intentionally:
(1) conceals;
(2) harbors; or
(3) shields from detection;
an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law, commits harboring an illegal alien, a Class A misdemeanor.

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

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

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

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

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

SECTION 49. IC 35-44.2 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

ARTICLE 44.2. OFFENSES AGAINST STATE PUBLIC ADMINISTRATION

Chapter 1. Interference with State Government

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

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

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

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

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

(4) the misuse of public resources.

(c) A state supervisor who knowingly or intentionally:

(1) dismisses from employment;

(2) withholds a salary increase or employment related benefit of;

(3) transfers or reassigns;

(4) denies a promotion that would have been received by; or

(5) demotes;

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

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

(1) an employee (as defined in IC 4-2-6-1(a)(8));

(2) a special state appointee (as defined in IC 4-2-6-1(a)(16); or

(3) a state officer (as defined in IC 4-2-6-1(a)(17)).

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

(1) filing a complaint with the state ethics commission or the inspector general;

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

(3) testifying at a state ethics commission proceeding;

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

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

(1) did not act in good faith; or

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

Sec. 3. A person who:

(1) knowingly or intentionally induces or attempts to induce, by threat, coercion, suggestion, or false statement, a witness

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or informant in a state ethics commission proceeding or investigation conducted by the inspector general to do any of the following:

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

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

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

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

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

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

commits obstructing the inspector general, a Class A misdemeanor.

Sec. 4. A person who:

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

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

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

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

(A) the department of correction ombudsman;

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

(C) a person who provides information to the department of correction ombudsman;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 2. Purchasing Offenses

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

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

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

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

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

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

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

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

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

(3) A county.

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

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

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

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

(8) A public library.

(9) A library services authority.

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

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

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

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

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(14) A board of an airport authority under IC 8-22-3.
(15) A conservancy district.
(16) A board of aviation commissioners under IC 8-22-2.
(17) A public transportation corporation under IC 36-9-4.
(18) A commuter transportation district under IC 8-5-15.
(19) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).
(20) A county building authority under IC 36-9-13.
(21) A soil and water conservation district established under IC 14-32.
(22) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.
(23) The commuter rail service board established under IC 8-24-5.
(24) The regional demand and scheduled bus service board established under IC 8-24-6.

(b) A disbursing officer (as described in IC 5-11-10) who knowingly or intentionally pays a claim that is not:
(1) fully itemized; and
(2) properly certified to by the claimant or some authorized person in the claimant's behalf, with the following words of certification: I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid;

commits a violation of the itemization and certification rule, a Class A misdemeanor.

Sec. 4. (a) As used in this section, a "purchase" means:
(1) the purchase of materials, equipment, goods and supplies for at least ten thousand dollars ($10,000); or
(2) the leasing of equipment for at least five thousand dollars ($5,000).

(b) A state purchaser of materials (as described in IC 5-17-1) who fails to advertise (as defined in IC 5-3-1) for, receive, or consider bids for purchase commits unlawful competitive bidding, a class A misdemeanor.

Sec. 5. A person who knowingly, intentionally, or recklessly violates:
(1) IC 5-10.4-3-10;
(2) IC 5-10.4-3-12;
(3) IC 5-10.4-3-14; or
(4) IC 5-10.4-3-15;

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commits improper teacher's retirement fund accounting, a Class A misdemeanor.

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

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

Chapter 3. State Public Works Contracting

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

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

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

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

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

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

Chapter 4. Confidentiality of Records and Meetings

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

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

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

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

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

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

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

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

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

SECTION 50. IC 35-45-6-1, AS AMENDED BY P.L.182-2011, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

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

(c) "Enterprise" means:

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

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

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

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

(1) A provision of IC 23-19, or of a rule or order issued under IC 23-19.

(2) A violation of IC 35-45-9.

(3) A violation of IC 35-47.

(4) A violation of IC 35-49-3.

(5) Murder (IC 35-42-1-1).

(6) Battery as a Class C felony (IC 35-42-2-1).

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

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

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

SECTION 51. IC 35-47-1-7, AS AMENDED BY P.L.127-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. "Proper person" means a person who:
(1) does not have a conviction for resisting law enforcement

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

SECTION 52. IC 35-47-4-5, AS AMENDED BY P.L.151-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:
(1) committing a serious violent felony in:
(A) Indiana; or
(B) any other jurisdiction in which the elements of the crime

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for which the conviction was entered are substantially similar to the elements of a serious violent felony; or

(2) attempting to commit or conspiring to commit a serious violent felony in:

(A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

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

(2) voluntary manslaughter (IC 35-42-1-3);

(3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);

(4) battery as a:

(A) Class A felony (IC 35-42-2-1(a)(5));

(B) Class B felony (IC 35-42-2-1(a)(4)); or

(C) Class C felony (IC 35-42-2-1(a)(3));

(5) aggravated battery (IC 35-42-2-1.5);

(6) kidnapping (IC 35-42-3-2);

(7) criminal confinement (IC 35-42-3-3);

(8) rape (IC 35-42-4-1);

(9) criminal deviate conduct (IC 35-42-4-2);

(10) child molesting (IC 35-42-4-3);

(11) sexual battery as a Class C felony (IC 35-42-4-8);

(12) robbery (IC 35-42-5-1);

(13) carjacking (IC 35-42-5-2);

(14) arson as a Class A felony or Class B felony (IC 35-43-1-1(a));

(15) burglary as a Class A felony or Class B felony (IC 35-43-2-1);

(16) assisting a criminal as a Class C felony ~~(IC 35-44-3-2.)~~ **(IC 35-44.1-2-5);**

(17) resisting law enforcement as a Class B felony or Class C felony ~~(IC 35-44-3-3);~~ **(IC 35-44.1-3-1);**

(18) escape as a Class B felony or Class C felony ~~(IC 35-44-3-5);~~ **(IC 35-44.1-3-4);**

(19) trafficking with an inmate as a Class C felony ~~(IC 35-44-3-9);~~ **(IC 35-44.1-3-5);**

(20) criminal gang intimidation (IC 35-45-9-4);

(21) stalking as a Class B felony or Class C felony

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(IC 35-45-10-5);
(22) incest (IC 35-46-1-3);
(23) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
(24) dealing in methamphetamine (IC 35-48-4-1.1);
(25) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
(26) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
(27) dealing in a schedule V controlled substance (IC 35-48-4-4).

(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Class B felony.

SECTION 53. IC 35-50-1-2, AS AMENDED BY P.L.126-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) As used in this section, "crime of violence" means the following:

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

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

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

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

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

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

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

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

(2) while the person is released:

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

(B) on bond;

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

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

SECTION 54. IC 35-50-2-2, AS AMENDED BY P.L.64-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

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

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

(2) The crime committed was a Class C felony and less than seven

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(7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

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

(4) The felony committed was:

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

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

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

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

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

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

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

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

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

(ii) the victim was not less than twelve (12) years old at the time the offense was committed;

(iii) the person is not more than four (4) years older than the victim, or more than five (5) years older than the victim if the relationship between the person and the victim was a dating relationship or an ongoing personal relationship (not including a family relationship);

(iv) the person did not have a position of authority or substantial influence over the victim; and

(v) the person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or

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with a deadly weapon;
(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
(L) resisting law enforcement ~~(IC 35-44-3-3)~~ **(IC 35-44.1-3-1)** with a deadly weapon;
(M) escape ~~(IC 35-44-3-5)~~ **(IC 35-44.1-3-4)** with a deadly weapon;
(N) rioting (IC 35-45-1-2) with a deadly weapon;
(O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center;
(P) dealing in methamphetamine (IC 35-48-4-1.1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver the methamphetamine pure or adulterated to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center;
(Q) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or

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(iv) a youth program center;

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

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

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

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

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

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

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

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

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

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

(i) If a person is:

(1) convicted of child molesting (IC 35-42-4-3) as a Class A felony against a victim less than twelve (12) years of age; and

(2) at least twenty-one (21) years of age;

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

SECTION 55. IC 35-50-5-1.1, AS AMENDED BY P.L.119-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1.1. (a) Whenever a person is convicted of a misdemeanor under ~~IC 35-44-1,~~ **IC 35-44.1-1,** the court may include in the sentence an order rendering the person incapable of holding a public office of trust or profit for a fixed period of not more than ten

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(10) years.

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

(c) This subsection applies whenever:

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

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

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

SECTION 56. IC 35-51-4-1, AS ADDED BY P.L.70-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 4:

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

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

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

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

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

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

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

~~IC 4-13-1.2-11 (Concerning the department of correction ombudsman).~~

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

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

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

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

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

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

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

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

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

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

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

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IC 4-30-13-1 (Concerning the lottery).
IC 4-30-14-1 (Concerning the lottery).
IC 4-30-14-2 (Concerning the lottery).
IC 4-30-14-3 (Concerning the lottery).
IC 4-30-14-4 (Concerning the lottery).
IC 4-30-14-5 (Concerning ~~the lottery).~~ **horse racing).**
IC 4-30-14-6 (Concerning the lottery).
IC 4-31-13-3 (Concerning horse racing).
IC 4-31-13-3.5 (Concerning horse racing).
IC 4-31-13-9 (Concerning ~~the lottery).~~ **horse racing).**
IC 4-32.2-8-4 (Concerning charity gaming).
IC 4-33-10-1 (Concerning riverboat gambling).
IC 4-33-10-2 (Concerning riverboat gambling).
IC 4-33-10-2.1 (Concerning riverboat gambling).
IC 4-33-10-2.5 (Concerning riverboat gambling).
IC 4-33-22-14 (Concerning boxing and mixed martial arts).
IC 4-33-22-40 (Concerning boxing and mixed martial arts).
IC 4-35-9-2 (Concerning gambling games at racetracks).
IC 4-35-9-3 (Concerning gambling games at racetracks).
IC 4-35-9-4 (Concerning gambling games at racetracks).
IC 4-35-9-5 (Concerning gambling games at racetracks).
IC 4-36-6-5 (Concerning gambling in certain establishments).

SECTION 57. IC 35-51-5-1, AS ADDED BY P.L.70-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 5:

IC 5-1-4-22 (Concerning hospital bonding authorities).
IC 5-2-2-11 (Concerning the law enforcement academy building commission).
IC 5-2-4-7 (Concerning criminal intelligence information).
IC 5-10.4-3-16 (Concerning the Indiana state teacher's retirement fund).
IC 5-11-1-18 (Concerning state board of accounts).
~~IC 5-11-10-3 (Concerning certification of claims).~~
~~IC 5-13-14-3 (Concerning public funds).~~
~~IC 5-13-14-4 (Concerning public funds).~~
~~IC 5-14-3-10 (Concerning access to public records).~~
IC 5-15-6-8 (Concerning local public records commissions).
IC 5-16-7-3 (Concerning wage scale of contractor's and subcontractors employees).
IC 5-16-9-5 (Concerning parking for persons with physical disabilities).
~~IC 5-17-1-5 (Concerning public purchases).~~

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~~IC 5-17-1-6 (Concerning public purchases).~~
IC 5-28-15-7 (Concerning enterprise zones).
IC 5-28-15-8 (Concerning enterprise zones).

SECTION 58. IC 36-8-12-10.5, AS AMENDED BY P.L.63-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10.5. (a) This section does not apply to an employee of the state subject to IC 4-15-10-7.

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

(1) is a volunteer firefighter or volunteer member; and

(2) has notified the employee's employer in writing that the employee is a volunteer firefighter or volunteer member.

(c) The political subdivision employer may not discipline an employee:

(1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment;

(2) for leaving the employee's duty station to respond to a fire or an emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work; or

(3) for:

(A) an injury; or

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

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

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

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

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

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

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

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

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

(2) treated as a confidential medical record.

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

(1) Payment of back wages.

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

(3) Fringe benefits wrongly denied or withdrawn.

(4) Seniority rights wrongly denied or withdrawn.

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

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

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COMMITTEE REPORT

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

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

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

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