

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1200**

Citations Affected: IC 11-8-7-2; IC 11-13; IC 16-41-6-1; IC 31-37-19; IC 35-38; IC 35-50-6-3.3; IC 35-50-6-3.3.

Synopsis: Various correction matters. Conference committee report for EHB 1200. Requires a sentencing court to inform the department of correction (department) if the person sentenced is a credit restricted felon. Requires a court that determines that a person sentenced is a credit restricted felon to state in the sentencing order and the abstract of judgment that the person is a credit restricted felon. Requires the judicial conference to adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation. Provides procedures for a person on probation to be sanctioned by a probation officer. Requires that credit time earned by certain offenders shall be reduced to the extent that application of the credit time would result in postconviction release or a community transition program assignment in less than 45 days after the person earns the credit time. Requires the department to: (1) establish an automated victim notification system; and (2) notify a registered crime victim of certain changes affecting the committed offender who committed the crime against the victim. Specifies when the department shall make certain victim notifications. Provides that if a court imposes a felony sentence that involves a commitment to the department, the court shall state certain information in the sentencing order and abstract of judgment. Provides that if a court orders probation for a person, the person or in the case of a child, the child's parents are responsible for certain costs. **(This conference committee report: (1) removes provisions that: (A) add a definition of a research intensive campus; (B) remove the requirement that all the members of the board of trustees of Ball State University must be residents of Indiana and that at least one member be a resident of Delaware County; (C) modifies the manner in which alumni members of the Indiana University board of trustees are elected; (D) allow the board of trustees of Indiana University to hold meetings at the dates, times, and places the board of trustees agrees upon; (E) repeal a provision concerning emergency appointments to the board of trustees of Indiana University; and (F) provide that the board of trustees of a state educational institution may not impose or allow any mandatory or presumptive age limits in the hiring, the retention in a position, or continuation of employment of any officers, faculty, or counsel of the institution; and (2) adds provisions that: (A) require the judicial conference to adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation; (B) provide procedures for a person on probation to be sanctioned by a probation officer; (C) require that credit time earned by**

certain offenders shall be reduced to the extent that application of the credit time would result in postconviction release or a community transition program assignment in less than 45 days after the person earns the credit time; (D) require the department to establish an automated victim notification system and to notify a registered crime victim of certain changes affecting the committed offender who committed the crime against the victim; (E) specify when the department shall make certain victim notifications; (F) provide that if a court imposes a felony sentence that involves a commitment to the department, the court shall state certain information in the sentencing order and abstract of judgment; and (G) provide that if a court orders probation for a person, the person or, in the case of a child, the child's parents are responsible for certain costs.)

Effective: July 1, 2012.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1200 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 corrections.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 11-8-7-2, AS ADDED BY P.L.64-2005, SECTION
- 6 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 7 2012]: Sec. 2. (a) The department ~~may~~ **shall** establish an automated
- 8 victim notification system that must do the following:
- 9 (1) Automatically notify a registered crime victim when a
- 10 committed offender who committed the crime against the victim:
- 11 (A) is assigned to a:
- 12 (i) department facility; or
- 13 (ii) county jail or any other facility not operated by the
- 14 department;
- 15 (B) is transferred to a:
- 16 (i) department facility; or
- 17 (ii) county jail or any other facility not operated by the
- 18 department;
- 19 (C) is given a different security classification;
- 20 (D) is released on temporary leave;
- 21 (E) is discharged; ~~or~~
- 22 (F) has escaped;

- 1 **(G) has a change in the committed offender's expected date**
 2 **of release from incarceration;**
 3 **(H) is scheduled to have a parole release hearing;**
 4 **(I) has requested clemency or pardon consideration;**
 5 **(J) is to be placed in a minimum security:**
 6 **(i) facility; or**
 7 **(ii) work release program;**
 8 **or is permitted to participate in another minimum security**
 9 **assignment; or**
 10 **(K) dies during the committed offender's period of**
 11 **incarceration.**
- 12 (2) Allow a registered crime victim to receive the most recent
 13 status report for an offender by calling the automated victim
 14 notification system on a toll free telephone number.
- 15 (3) Allow a crime victim to register or update the victim's
 16 registration for the automated victim notification system by
 17 calling a toll free telephone number.
- 18 (b) For purposes of subsection (a), ~~if the department establishes an~~
 19 ~~automated victim notification system~~, a sheriff responsible for the
 20 operation of a county jail shall immediately notify the department if a
 21 committed offender:
- 22 (1) is transferred to another county jail or another facility not
 23 operated by the department of correction;
 24 (2) is released on temporary leave;
 25 (3) is discharged; or
 26 (4) has escaped.
- 27 Sheriffs and other law enforcement officers and prosecuting attorneys
 28 shall cooperate with the department in establishing and maintaining an
 29 automated victim notification system.
- 30 (c) An automated victim notification system may transmit
 31 information to a person by:
- 32 (1) telephone;
 33 (2) electronic mail; or
 34 (3) another method as determined by the department.
- 35 **(d) The department shall provide the opportunity for a**
 36 **registered crime victim to receive periodic status reports**
 37 **concerning the committed offender who committed the crime**
 38 **against the registered crime victim, including reports stating:**
 39 **(1) the committed offender's projected date of release from**
 40 **imprisonment;**
 41 **(2) the facility where the committed offender is imprisoned;**
 42 **and**
 43 **(3) the current security classification of the committed**
 44 **offender.**
- 45 (e) A registered crime victim may choose to receive a status
 46 report described in subsection (d):
- 47 (1) annually;
 48 (2) quarterly;
 49 (3) monthly; or
 50 (4) when triggered by an event described in subsection (a)(1).

51 SECTION 2. IC 11-13-1-8, AS AMENDED BY P.L.1-2007,

1 SECTION 102, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) As used in this section,
 3 "board" refers to the board of directors of the judicial conference of
 4 Indiana established by IC 33-38-9-3.

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

7 (1) educational and occupational qualifications for employment
 8 as a probation officer;

9 (2) compensation of probation officers;

10 (3) protection of probation records and disclosure of information
 11 contained in those records; ~~and~~

12 (4) presentence investigation reports;

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

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

17 (c) The conference shall prepare a written examination to be used
 18 in establishing lists of persons eligible for appointment as probation
 19 officers. The conference shall prescribe the qualifications for entrance
 20 to the examination and establish a minimum passing score and rules for
 21 the administration of the examination after obtaining recommendations
 22 on these matters from the probation standards and practices advisory
 23 committee. The examination must be offered at least once every other
 24 month.

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

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

29 (1) the implementation and management of probation case
 30 classification; and

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

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

34 (f) The conference shall, in cooperation with the department of child
 35 services and the department of education, provide probation
 36 departments with training and technical assistance relating to special
 37 education services and programs that may be available for delinquent
 38 children or children in need of services. The subjects addressed by the
 39 training and technical assistance must include the following:

40 (1) Eligibility standards.

41 (2) Testing requirements and procedures.

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

45 (4) Procedures and requirements for placement in residential
 46 special education institutions or facilities under IC 20-35-6-2 and
 47 511 IAC 7-27-12.

48 (5) Development and implementation of individual education
 49 programs for eligible children in:

50 (A) accordance with applicable requirements of state and
 51 federal laws and rules; and

- 1 (B) coordination with:
 2 (i) individual case plans; and
 3 (ii) informal adjustment programs or dispositional decrees
 4 entered by courts having juvenile jurisdiction under
 5 IC 31-34 and IC 31-37.
- 6 (6) Sources of federal, state, and local funding that is or may be
 7 available to support special education programs for children for
 8 whom proceedings have been initiated under IC 31-34 and
 9 IC 31-37.
- 10 Training for probation departments may be provided jointly with
 11 training provided to child welfare caseworkers relating to the same
 12 subject matter.
- 13 (g) The conference shall, in cooperation with the division of mental
 14 health and addiction (IC 12-21) and the division of disability and
 15 rehabilitative services (IC 12-9-1), provide probation departments with
 16 training and technical assistance concerning mental illness, addictive
 17 disorders, mental retardation, and developmental disabilities.
- 18 (h) The conference shall make recommendations to courts and
 19 probation departments concerning:
- 20 (1) selection, training, distribution, and removal of probation
 21 officers;
 22 (2) methods and procedure for the administration of probation,
 23 including investigation, supervision, workloads, record keeping,
 24 and reporting; and
 25 (3) use of citizen volunteers and public and private agencies.
- 26 (i) The conference may delegate any of the functions described in
 27 this section to the advisory committee or the Indiana judicial center.
- 28 SECTION 3. IC 11-13-3-3, AS AMENDED BY P.L.105-2010,
 29 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2012]: Sec. 3. (a) A person sentenced under IC 35-50 shall be
 31 released on parole or discharged from the person's term of
 32 imprisonment under IC 35-50 without a parole release hearing.
- 33 (b) A person sentenced for an offense under laws other than
 34 IC 35-50 who is eligible for release on parole, or a person whose parole
 35 is revoked and is eligible for reinstatement on parole under rules
 36 adopted by the parole board shall, before the date of the person's parole
 37 eligibility, be granted a parole release hearing to determine whether
 38 parole will be granted or denied. The hearing shall be conducted by one
 39 (1) or more of the parole board members. If one (1) or more of the
 40 members conduct the hearing on behalf of the parole board, the final
 41 decision shall be rendered by the full parole board based upon the
 42 record of the proceeding and the hearing conductor's findings. Before
 43 the hearing, the parole board shall order an investigation to include the
 44 collection and consideration of:
- 45 (1) reports regarding the person's medical, psychological,
 46 educational, vocational, employment, economic, and social
 47 condition and history;
 48 (2) official reports of the person's history of criminality;
 49 (3) reports of earlier parole or probation experiences;
 50 (4) reports concerning the person's present commitment that are

- 1 relevant to the parole release determination;
 2 (5) any relevant information submitted by or on behalf of the
 3 person being considered; and
 4 (6) such other relevant information concerning the person as may
 5 be reasonably available.

6 (c) Unless the victim has requested in writing not to be notified, the
 7 department shall notify a victim of a felony (or the next of kin of the
 8 victim if the felony resulted in the death of the victim) or any witness
 9 involved in the prosecution of an offender imprisoned for the
 10 commission of a felony when the offender is:

- 11 (1) to be discharged from imprisonment;
 12 (2) to be released on parole under IC 35-50-6-1;
 13 (3) to have a parole release hearing under this chapter;
 14 (4) to have a parole violation hearing;
 15 (5) an escaped committed offender; or
 16 (6) to be released from departmental custody under any temporary
 17 release program administered by the department, including the
 18 following:

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

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

24 (d) The department shall make the notification required under
 25 subsection (c):

26 **(1) not later than twenty-four (24) hours after the escape of a**
 27 **committed offender;**

28 ~~(2)~~ **(2)** at least forty (40) days before: a

29 **(A) the discharge or release of a committed offender; or**

30 **(B) the date of a hearing occurs; concerning a committed**
 31 **offender's possible discharge or release; and**

32 ~~(3)~~ **(3) if the date of a committed offender's discharge or**
 33 **release as referred to in subdivision (2)(A) is changed during**
 34 **the forty (40) day notification period referred to in**
 35 **subdivision (2), not later more than twenty-four (24) hours after**
 36 **the escape of a committed offender. forty-eight (48) hours after**
 37 **the change in the discharge or release date.**

38 The department shall supply the information to a victim (or a next of
 39 kin of a victim in the appropriate case) and a witness at the address
 40 supplied to the department by the victim (or next of kin) or witness. A
 41 victim (or next of kin) is responsible for supplying the department with
 42 any change of address or telephone number of the victim (or next of
 43 kin).

44 (e) The probation officer conducting the presentence investigation
 45 shall inform the victim and witness described in subsection (c), at the
 46 time of the interview with the victim or witness, of the right of the
 47 victim or witness to receive notification from the department under
 48 subsection (c). The probation department for the sentencing court shall
 49 forward the most recent list of the addresses or telephone numbers, or
 50 both, of victims to the department of correction. The probation

1 department shall supply the department with the information required
2 by this section as soon as possible but not later than five (5) days from
3 the receipt of the information from the victim. A victim (or next of kin)
4 is responsible for supplying the department with the correct address
5 and telephone number of the victim (or next of kin).

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

12 (g) The notice required under subsection (c) must specify whether
13 the prisoner is being discharged, is being released on parole, is being
14 released on lifetime parole, is having a parole release hearing, is having
15 a parole violation hearing, or has escaped. The notice must contain the
16 following information:

- 17 (1) The name of the prisoner.
- 18 (2) The date of the offense.
- 19 (3) The date of the conviction.
- 20 (4) The felony of which the prisoner was convicted.
- 21 (5) The sentence imposed.
- 22 (6) The amount of time served.
- 23 (7) The date and location of the interview (if applicable).

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

- 27 (1) nature and circumstances of the crime for which the offender
28 is committed;
- 29 (2) offender's prior criminal record;
- 30 (3) offender's conduct and attitude during the commitment; and
- 31 (4) offender's parole plan.

32 (i) The hearing prescribed by this section may be conducted in a
33 informal manner without regard to rules of evidence. In connection
34 with the hearing, however:

- 35 (1) reasonable, advance written notice, including the date, time,
36 and place of the hearing shall be provided to the person being
37 considered;
- 38 (2) the person being considered shall be given access, in accord
39 with IC 11-8-5, to records and reports considered by the parole
40 board in making its parole release decision;
- 41 (3) the person being considered may appear, speak in the person's
42 own behalf, and present documentary evidence;
- 43 (4) irrelevant, immaterial, or unduly repetitious evidence shall be
44 excluded; and
- 45 (5) a record of the proceeding, to include the results of the parole
46 board's investigation, notice of the hearing, and evidence adduced
47 at the hearing, shall be made and preserved.

48 (j) If parole is denied, the parole board shall give the person written
49 notice of the denial and the reasons for the denial. The parole board
50 may not parole a person if it determines that there is substantial reason

- 1 to believe that the person:
- 2 (1) will engage in further specified criminal activity; or
- 3 (2) will not conform to appropriate specified conditions of parole.
- 4 (k) If parole is denied, the parole board shall conduct another parole
- 5 release hearing not earlier than five (5) years after the date of the
- 6 hearing at which parole was denied. However, the board may conduct
- 7 a hearing earlier than five (5) years after denial of parole if the board:
- 8 (1) finds that special circumstances exist for the holding of a
- 9 hearing; and
- 10 (2) gives reasonable notice to the person being considered for
- 11 parole.
- 12 (l) The parole board may parole a person who is outside Indiana on
- 13 a record made by the appropriate authorities of the jurisdiction in
- 14 which that person is imprisoned.
- 15 (m) If the board is considering the release on parole of an offender
- 16 who is serving a sentence of life in prison, a determinate term of
- 17 imprisonment of at least ten (10) years, or an indeterminate term of
- 18 imprisonment with a minimum term of at least ten (10) years, in
- 19 addition to the investigation required under subsection (b), except as
- 20 provided in subsection (n), the board may order and consider a
- 21 community investigation, which may include an investigation and
- 22 report that substantially reflects the attitudes and opinions of:
- 23 (1) the community in which the crime committed by the offender
- 24 occurred;
- 25 (2) law enforcement officers who have jurisdiction in the
- 26 community in which the crime occurred;
- 27 (3) the victim of the crime committed by the offender, or if the
- 28 victim is deceased or incompetent for any reason, the victim's
- 29 relatives or friends; and
- 30 (4) friends or relatives of the offender.
- 31 If the board reconsiders for release on parole an offender who was
- 32 previously released on parole and whose parole was revoked under
- 33 section 10 of this chapter, the board may use a community investigation
- 34 prepared for an earlier parole hearing to comply with this subsection.
- 35 However, the board shall accept and consider any supplements or
- 36 amendments to any previous statements from the victim or the victim's
- 37 relatives or friends.
- 38 (n) The board shall conduct the community investigation described
- 39 in subsection (m) if:
- 40 (1) the person was convicted of a crime of violence (as defined in
- 41 IC 35-50-1-2); or
- 42 (2) the person is a sex offender (as defined in IC 11-8-8-4.5).
- 43 (o) As used in this section, "victim" means a person who has
- 44 suffered direct harm as a result of a violent crime (as defined in
- 45 IC 5-2-6.1-8).
- 46 SECTION 4. IC 16-41-6-1, AS AMENDED BY P.L.94-2010,
- 47 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 48 JULY 1, 2012]: Sec. 1. (a) Except as provided in IC 16-41-8-6,
- 49 IC 16-41-10-2.5, and subsection (b), a person may not perform a
- 50 screening or confirmatory test for the antibody or antigen to HIV

1 without the oral or written consent of the individual to be tested or a
 2 representative as authorized under IC 16-36-1. A physician ordering
 3 the test or the physician's authorized representative shall document
 4 whether or not the individual has consented. The test for the antibody
 5 or antigen to HIV may not be performed on a woman under section 5
 6 or 6 of this chapter if the woman refuses under section 7 of this chapter
 7 to consent to the test.

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

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

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

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

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

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

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

25 SECTION 5. IC 31-37-19-1, AS AMENDED BY P.L.146-2008,
 26 SECTION 647, IS AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Subject to section 6.5 of this
 28 chapter, if a child is a delinquent child under IC 31-37-2, the juvenile
 29 court may enter one (1) or more of the following dispositional decrees:

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

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

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

34 (B) from an individual practitioner.

35 (3) Remove the child from the child's home and place the child in
 36 another home or shelter care facility. Placement under this
 37 subdivision includes authorization to control and discipline the
 38 child.

39 (4) Award wardship to a:

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

41 (B) shelter care facility.

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

44 (6) Order:

45 (A) the child; or

46 (B) the child's parent, guardian, or custodian;

47 to receive family services.

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

50 (b) If the child is removed from the child's home and placed in a

1 foster family home or another facility, the juvenile court shall:

- 2 (A) approve a permanency plan for the child;
 3 (B) find whether or not reasonable efforts were made to prevent
 4 or eliminate the need for the removal;
 5 (C) designate responsibility for the placement and care of the
 6 child with the probation department; and
 7 (D) find whether it:
 8 (i) serves the best interests of the child to be removed; and
 9 (ii) would be contrary to the health and welfare of the child for
 10 the child to remain in the home.

11 (c) If a dispositional decree under this section:

- 12 (1) orders or approves removal of a child from the child's home or
 13 awards wardship of the child to a:
 14 (A) person other than the department; or
 15 (B) shelter care facility; and
 16 (2) is the first court order in the delinquent child proceeding that
 17 authorizes or approves removal of the child from the child's
 18 parent, guardian, or custodian;

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

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

29 SECTION 6. IC 31-37-19-5, AS AMENDED BY P.L.146-2008,
 30 SECTION 650, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) This section applies if a child
 32 is a delinquent child under IC 31-37-1.

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

- 36 (1) Order supervision of the child by the probation department as
 37 a condition of probation under this subdivision. The juvenile court
 38 shall after a determination under IC 11-8-8-5 require a child who
 39 is adjudicated a delinquent child for an act that would be an
 40 offense described in IC 11-8-8-5 if committed by an adult to
 41 register with the local law enforcement authority under IC 11-8-8.
 42 (2) Order the child to receive outpatient treatment:
 43 (A) at a social service agency or a psychological, a psychiatric,
 44 a medical, or an educational facility; or
 45 (B) from an individual practitioner.
 46 (3) Order the child to surrender the child's driver's license to the
 47 court for a specified period of time.
 48 (4) Order the child to pay restitution if the victim provides
 49 reasonable evidence of the victim's loss, which the child may
 50 challenge at the dispositional hearing.
 51 (5) Partially or completely emancipate the child under section 27

- 1 of this chapter.
 2 (6) Order the child to attend an alcohol and drug services program
 3 established under IC 12-23-14.
 4 (7) Order the child to perform community restitution or service
 5 for a specified period of time.
 6 (8) Order wardship of the child as provided in section 9 of this
 7 chapter.

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

16 SECTION 7. IC 35-38-1-7.8 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2012]: **Sec. 7.8. (a) At the time of sentencing, a court shall**
 19 **determine whether a person is a credit restricted felon (as defined**
 20 **in IC 35-31.5-2-72).**

- 21 **(b) A determination under subsection (a) must be based upon:**
 22 **(1) evidence admitted at trial that is relevant to the credit**
 23 **restricted status;**
 24 **(2) evidence introduced at the sentencing hearing; or**
 25 **(3) a factual basis provided as part of a guilty plea.**

26 **(c) Upon determining that a defendant is a credit restricted**
 27 **felon, a court shall advise the defendant of the consequences of this**
 28 **determination.**

29 SECTION 8. IC 35-38-1-31 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 31 1, 2012]: **Sec. 31. (a) If a court imposes on a person convicted of a**
 32 **felony a sentence that involves a commitment to the department of**
 33 **correction, the court shall complete an abstract of judgment in an**
 34 **electronic format approved by the department of correction and**
 35 **the division of state court administration. The abstract of judgment**
 36 **must include, but not be limited to:**

- 37 **(1) each offense the person is convicted of;**
 38 **(2) the sentence, including whether the sentence includes a**
 39 **suspended sentence, probation, or direct commitment to**
 40 **community corrections; and**
 41 **(3) whether the person is a credit restricted felon.**

42 **(b) If a person convicted of a felony is committed to the**
 43 **department of correction by a court as a result of a violation of the**
 44 **terms of probation or other community placement, the court shall**
 45 **state in the abstract of judgment the specific reasons for revocation**
 46 **if probation, parole, or a community corrections placement has**
 47 **been revoked.**

48 SECTION 9. IC 35-38-2-2.3, AS AMENDED BY P.L.111-2009,
 49 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 50 JULY 1, 2012]: **Sec. 2.3. (a) As a condition of probation, the court may**
 51 **require a person to do a combination of the following:**

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

- 1 (i) the delivery by any person to another person; or
 2 (ii) the use by any person on another person;
 3 of a contaminated sharp (as defined in IC 16-41-16-2) or other
 4 paraphernalia that creates an epidemiologically demonstrated
 5 risk of transmission of HIV by involving percutaneous contact.
 6 ~~(17)~~ **(18)** Refrain from any direct or indirect contact with an
 7 individual and, if convicted of an offense under IC 35-46-3, any
 8 animal belonging to the individual.
 9 ~~(18)~~ **(19)** Execute a repayment agreement with the appropriate
 10 governmental entity or with a person for reasonable costs incurred
 11 because of the taking, detention, or return of a missing child (as
 12 defined in IC 10-13-5-4).
 13 ~~(19)~~ **(20)** Periodically undergo a laboratory chemical test (as
 14 defined in IC 14-15-8-1) or series of chemical tests as specified
 15 by the court to detect and confirm the presence of a controlled
 16 substance (as defined in IC 35-48-1-9). The person on probation
 17 is responsible for any charges resulting from a test and shall have
 18 the results of any test under this subdivision reported to the
 19 person's probation officer by the laboratory.
 20 ~~(20)~~ **(21)** If the person was confined in a penal facility, execute a
 21 reimbursement plan as directed by the court and make repayments
 22 under the plan to the authority that operates the penal facility for
 23 all or part of the costs of the person's confinement in the penal
 24 facility. The court shall fix an amount that:
 25 (A) may not exceed an amount the person can or will be able
 26 to pay;
 27 (B) does not harm the person's ability to reasonably be self
 28 supporting or to reasonably support any dependent of the
 29 person; and
 30 (C) takes into consideration and gives priority to any other
 31 restitution, reparation, repayment, or fine the person is
 32 required to pay under this section.
 33 ~~(21)~~ **(22)** Refrain from owning, harboring, or training an animal.
 34 ~~(22)~~ **(23)** Participate in a reentry court program.
 35 (b) When a person is placed on probation, the person shall be given
 36 a written statement specifying:
 37 (1) the conditions of probation; and
 38 (2) that if the person violates a condition of probation during the
 39 probationary period, a petition to revoke probation may be filed
 40 before the earlier of the following:
 41 (A) One (1) year after the termination of probation.
 42 (B) Forty-five (45) days after the state receives notice of the
 43 violation.
 44 (c) As a condition of probation, the court may require that the
 45 person serve a term of imprisonment in an appropriate facility at the
 46 time or intervals (consecutive or intermittent) within the period of
 47 probation the court determines.
 48 (d) Intermittent service may be required only for a term of not more
 49 than sixty (60) days and must be served in the county or local penal
 50 facility. The intermittent term is computed on the basis of the actual

1 days spent in confinement and shall be completed within one (1) year.
 2 A person does not earn credit time while serving an intermittent term
 3 of imprisonment under this subsection. When the court orders
 4 intermittent service, the court shall state:

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

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

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

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

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

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

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

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

33 SECTION 10. IC 35-38-2-3, AS AMENDED BY P.L.106-2010,
 34 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2012]: Sec. 3. (a) The court may revoke a person's probation
 36 if:

- 37 (1) the person has violated a condition of probation during the
 38 probationary period; and
- 39 (2) the petition to revoke probation is filed during the
 40 probationary period or before the earlier of the following:
 41 (A) One (1) year after the termination of probation.
 42 (B) Forty-five (45) days after the state receives notice of the
 43 violation.

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

- 46 (1) order a summons to be issued to the person to appear; or
- 47 (2) order a warrant for the person's arrest if there is a risk of the
 48 person's fleeing the jurisdiction or causing harm to others.

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

51 (d) **Except as provided in subsection (e)**, the court shall conduct

1 a hearing concerning the alleged violation. The court may admit the
 2 person to bail pending the hearing. **A person who is not admitted to**
 3 **bail pending the hearing may not be held in jail for more than**
 4 **fifteen (15) days without a hearing on the alleged violation of**
 5 **probation.**

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

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

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

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

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

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

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

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

37 (1) order one (1) or more sanctions as set forth in subsection ~~(g)~~;
 38 (h); and

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

41 ~~(i)~~ (j) If the court finds that the person has violated a condition
 42 during any time before the termination of the period, and the petition
 43 is filed under subsection (a) after the probationary period has expired,
 44 the court may:

45 (1) reinstate the person's probationary period, with or without
 46 enlarging the conditions, if the sum of the length of the original
 47 probationary period and the reinstated probationary period does
 48 not exceed the length of the maximum sentence allowable for the
 49 offense that is the basis of the probation; or

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

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

- 5 (1) order a sanction as set forth in subsection ~~(i)~~; **(j)**; and
 6 (2) provide credit for time served as set forth under
 7 IC 35-38-2.5-5.

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

9 ~~(j)~~ **(m)** Failure to pay fines or costs (including fees) required as a
 10 condition of probation may not be the sole basis for commitment to the
 11 department of correction.

12 ~~(m)~~ **(n)** Failure to pay fees or costs assessed against a person under
 13 IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for
 14 revocation of probation.

15 SECTION 11. IC 35-50-6-3.3, AS AMENDED BY P.L.228-2011,
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2012]: Sec. 3.3. (a) In addition to any credit time a person
 18 earns under subsection (b) or section 3 of this chapter, a person earns
 19 credit time if the person:

- 20 (1) is in credit Class I;
 21 (2) has demonstrated a pattern consistent with rehabilitation; and
 22 (3) successfully completes requirements to obtain one (1) of the
 23 following:

24 (A) A general educational development (GED) diploma under
 25 IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person
 26 has not previously obtained a high school diploma.

27 (B) Except as provided in subsection (n), a high school
 28 diploma, if the person has not previously obtained a general
 29 educational development (GED) diploma.

30 (C) An associate's degree from an approved postsecondary
 31 educational institution (as defined under IC 21-7-13-6(a)).

32 (D) A bachelor's degree from an approved postsecondary
 33 educational institution (as defined under IC 21-7-13-6(a)).

34 (b) In addition to any credit time that a person earns under
 35 subsection (a) or section 3 of this chapter, a person may earn credit
 36 time if, while confined by the department of correction, the person:

- 37 (1) is in credit Class I;
 38 (2) demonstrates a pattern consistent with rehabilitation; and
 39 (3) successfully completes requirements to obtain at least one (1)
 40 of the following:

41 (A) A certificate of completion of a career and technical
 42 education program approved by the department of correction.

43 (B) A certificate of completion of a substance abuse program
 44 approved by the department of correction.

45 (C) A certificate of completion of a literacy and basic life
 46 skills program approved by the department of correction.

47 (D) A certificate of completion of a reformatory program
 48 approved by the department of correction.

49 (c) The department of correction shall establish admissions criteria
 50 and other requirements for programs available for earning credit time

1 under subsection (b). A person may not earn credit time under both
2 subsections (a) and (b) for the same program of study.

3 (d) The amount of credit time a person may earn under this section
4 is the following:

5 (1) Six (6) months for completion of a state of Indiana general
6 educational development (GED) diploma under IC 20-20-6
7 (before its repeal) or IC 22-4.1-18.

8 (2) One (1) year for graduation from high school.

9 (3) One (1) year for completion of an associate's degree.

10 (4) Two (2) years for completion of a bachelor's degree.

11 (5) Not more than a total of six (6) months of credit, as
12 determined by the department of correction, for the completion of
13 one (1) or more career and technical education programs
14 approved by the department of correction.

15 (6) Not more than a total of six (6) months of credit, as
16 determined by the department of correction, for the completion of
17 one (1) or more substance abuse programs approved by the
18 department of correction.

19 (7) Not more than a total of six (6) months credit, as determined
20 by the department of correction, for the completion of one (1) or
21 more literacy and basic life skills programs approved by the
22 department of correction.

23 (8) Not more than a total of six (6) months credit time, as
24 determined by the department of correction, for completion of one
25 (1) or more reformatory programs approved by the department of
26 correction. However, a person who is serving a sentence for an
27 offense listed under IC 11-8-8-4.5 may not earn credit time under
28 this subdivision.

29 However, a person who does not have a substance abuse problem that
30 qualifies the person to earn credit in a substance abuse program may
31 earn not more than a total of twelve (12) months of credit, as
32 determined by the department of correction, for the completion of one
33 (1) or more career and technical education programs approved by the
34 department of correction. If a person earns more than six (6) months of
35 credit for the completion of one (1) or more career and technical
36 education programs, the person is ineligible to earn credit for the
37 completion of one (1) or more substance abuse programs.

38 (e) Credit time earned by a person under this section is subtracted
39 from the release date that would otherwise apply to the person after
40 subtracting all other credit time earned by the person.

41 (f) A person does not earn credit time under subsection (a) unless
42 the person completes at least a portion of the degree requirements after
43 June 30, 1993.

44 (g) A person does not earn credit time under subsection (b) unless
45 the person completes at least a portion of the program requirements
46 after June 30, 1999.

47 (h) Credit time earned by a person under subsection (a) for a
48 diploma or degree completed before July 1, 1999, shall be subtracted
49 from:

50 (1) the release date that would otherwise apply to the person after

- 1 subtracting all other credit time earned by the person, if the
 2 person has not been convicted of an offense described in
 3 subdivision (2); or
 4 (2) the period of imprisonment imposed on the person by the
 5 sentencing court, if the person has been convicted of one (1) of
 6 the following crimes:
- 7 (A) Rape (IC 35-42-4-1).
 - 8 (B) Criminal deviate conduct (IC 35-42-4-2).
 - 9 (C) Child molesting (IC 35-42-4-3).
 - 10 (D) Child exploitation (IC 35-42-4-4(b)).
 - 11 (E) Vicarious sexual gratification (IC 35-42-4-5).
 - 12 (F) Child solicitation (IC 35-42-4-6).
 - 13 (G) Child seduction (IC 35-42-4-7).
 - 14 (H) Sexual misconduct with a minor as a Class A felony, Class
 15 B felony, or Class C felony (IC 35-42-4-9).
 - 16 (I) Incest (IC 35-46-1-3).
 - 17 (J) Sexual battery (IC 35-42-4-8).
 - 18 (K) Kidnapping (IC 35-42-3-2), if the victim is less than
 19 eighteen (18) years of age.
 - 20 (L) Criminal confinement (IC 35-42-3-3), if the victim is less
 21 than eighteen (18) years of age.
 - 22 (M) An attempt or a conspiracy to commit a crime listed in
 23 clauses (A) through (L).
- 24 (i) The maximum amount of credit time a person may earn under
 25 this section is the lesser of:
- 26 (1) four (4) years; or
 - 27 (2) one-third (1/3) of the person's total applicable credit time.
- 28 (j) **The amount of Credit time earned under this section is by an**
 29 **offender serving a sentence for a felony against a person under**
 30 **IC 35-42 or for a crime listed in IC 11-8-8-5 shall be** reduced to the
 31 extent that application of the credit time would otherwise result in:
- 32 (1) postconviction release (as defined in IC 35-40-4-6); or
 - 33 (2) assignment of the person to a community transition program;
 34 in less than forty-five (45) days after the person earns the credit time.
- 35 (k) A person may earn credit time for multiple degrees at the same
 36 education level under subsection (d) only in accordance with guidelines
 37 approved by the department of correction. The department of
 38 correction may approve guidelines for proper sequence of education
 39 degrees under subsection (d).
- 40 (l) A person may not earn credit time:
 - 41 (1) for a general educational development (GED) diploma if the
 42 person has previously earned a high school diploma; or
 - 43 (2) for a high school diploma if the person has previously earned
 44 a general educational development (GED) diploma.
 - 45 (m) A person may not earn credit time under this section if the
 46 person:
 - 47 (1) commits an offense listed in IC 11-8-8-4.5 while the person is
 48 required to register as a sex or violent offender under IC 11-8-8-7;
 49 and
 - 50 (2) is committed to the department of correction after being

1 convicted of the offense listed in IC 11-8-8-4.5.
2 (n) For a person to earn credit time under subsection (a)(3)(B) for
3 successfully completing the requirements for a high school diploma
4 through correspondence courses, each correspondence course must be
5 approved by the department before the person begins the
6 correspondence course. The department may approve a correspondence
7 course only if the entity administering the course is recognized and
8 accredited by the department of education in the state where the entity
9 is located.

(Reference is to EHB 1200 as printed February 17, 2012.)

Conference Committee Report
on
Engrossed House Bill 1200

Signed by:

Representative Foley
Chairperson

Senator Bray

Representative Porter

Senator Simpson

House Conferees

Senate Conferees