

## SENATE BILL No. 374

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-13-2-14.7; IC 10-13-3-27; IC 11-8-8; IC 12-24-3-2; IC 16-21-8-1; IC 16-25-6; IC 16-27-2; IC 20-28-5-8; IC 22-5-5-1; IC 29-3-7-7; IC 31-19-9-10; IC 31-30-1; IC 31-34-1-3; IC 31-35-3-4; IC 31-37-19-9; IC 33-37-5; IC 33-39-1-9; IC 35-31.5-2-216; IC 35-38; IC 35-42-4; IC 35-47-4-5; IC 35-50.

**Synopsis:** Rape and criminal deviate conduct. Merges the offense of criminal deviate conduct into the crime of rape, and repeals the statute defining the crime of criminal deviate conduct. Makes conforming amendments.

**Effective:** July 1, 2013.

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### Landske, Steele

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January 8, 2013, read first time and referred to Committee on Judiciary.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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## SENATE BILL No. 374



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:*

- 1 SECTION 1. IC 4-13-2-14.7 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14.7. A person
- 3 employed, appointed, or under contract with a state agency, who works
- 4 with or around children, shall be dismissed (after the appropriate
- 5 pre-deprivation procedure has occurred) if that person is, or has ever
- 6 been, convicted of any of the following:
- 7 (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
- 8 years of age.
- 9 (2) Criminal deviate conduct (IC 35-42-4-2) (**for an act**
- 10 **committed before its repeal**), if the victim is less than eighteen
- 11 (18) years of age.
- 12 (3) Child molesting (IC 35-42-4-3).
- 13 (4) Child exploitation (IC 35-42-4-4(b)).
- 14 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 15 (6) Child solicitation (IC 35-42-4-6).
- 16 (7) Child seduction (IC 35-42-4-7).
- 17 (8) Sexual misconduct with a minor as a Class A or **Class B**



1 felony (IC 35-42-4-9).  
 2 (9) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)  
 3 years of age.

4 SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.48-2012,  
 5 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2013]: Sec. 27. (a) Except as provided in subsection (b), on  
 7 request, a law enforcement agency shall release a limited criminal  
 8 history to or allow inspection of a limited criminal history by  
 9 noncriminal justice organizations or individuals only if the subject of  
 10 the request:

- 11 (1) has applied for employment with a noncriminal justice  
 12 organization or individual;  
 13 (2) has:  
 14 (A) applied for a license or is maintaining a license; and  
 15 (B) provided criminal history data as required by law to be  
 16 provided in connection with the license;  
 17 (3) is a candidate for public office or a public official;  
 18 (4) is in the process of being apprehended by a law enforcement  
 19 agency;  
 20 (5) is placed under arrest for the alleged commission of a crime;  
 21 (6) has charged that the subject's rights have been abused  
 22 repeatedly by criminal justice agencies;  
 23 (7) is the subject of a judicial decision or determination with  
 24 respect to the setting of bond, plea bargaining, sentencing, or  
 25 probation;  
 26 (8) has volunteered services that involve contact with, care of, or  
 27 supervision over a child who is being placed, matched, or  
 28 monitored by a social services agency or a nonprofit corporation;  
 29 (9) is currently residing in a location designated by the  
 30 department of child services (established by IC 31-25-1-1) or by  
 31 a juvenile court as the out-of-home placement for a child at the  
 32 time the child will reside in the location;  
 33 (10) has volunteered services at a public school (as defined in  
 34 IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12)  
 35 that involve contact with, care of, or supervision over a student  
 36 enrolled in the school;  
 37 (11) is being investigated for welfare fraud by an investigator of  
 38 the division of family resources or a county office of the division  
 39 of family resources;  
 40 (12) is being sought by the parent locator service of the child  
 41 support bureau of the department of child services;  
 42 (13) is or was required to register as a sex or violent offender

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- 1 under IC 11-8-8;  
 2 (14) has been convicted of any of the following:  
 3 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen  
 4 (18) years of age.  
 5 (B) Criminal deviate conduct (IC 35-42-4-2) (**repealed**), if the  
 6 victim is less than eighteen (18) years of age.  
 7 (C) Child molesting (IC 35-42-4-3).  
 8 (D) Child exploitation (IC 35-42-4-4(b)).  
 9 (E) Possession of child pornography (IC 35-42-4-4(c)).  
 10 (F) Vicarious sexual gratification (IC 35-42-4-5).  
 11 (G) Child solicitation (IC 35-42-4-6).  
 12 (H) Child seduction (IC 35-42-4-7).  
 13 (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).  
 14 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen  
 15 (18) years of age.  
 16 (K) Attempt under IC 35-41-5-1 to commit an offense listed in  
 17 clauses (A) through (J).  
 18 (L) Conspiracy under IC 35-41-5-2 to commit an offense listed  
 19 in clauses (A) through (J).  
 20 (M) An offense in any other jurisdiction in which the elements  
 21 of the offense for which the conviction was entered are  
 22 substantially similar to the elements of an offense described  
 23 under clauses (A) through (J);  
 24 (15) is identified as a possible perpetrator of child abuse or  
 25 neglect in an assessment conducted by the department of child  
 26 services under IC 31-33-8; or  
 27 (16) is:  
 28 (A) a parent, guardian, or custodian of a child; or  
 29 (B) an individual who is at least eighteen (18) years of age and  
 30 resides in the home of the parent, guardian, or custodian;  
 31 with whom the department of child services or a county probation  
 32 department has a case plan, dispositional decree, or permanency  
 33 plan approved under IC 31-34 or IC 31-37 that provides for  
 34 reunification following an out-of-home placement.  
 35 However, limited criminal history information obtained from the  
 36 National Crime Information Center may not be released under this  
 37 section except to the extent permitted by the Attorney General of the  
 38 United States.  
 39 (b) A law enforcement agency shall allow inspection of a limited  
 40 criminal history by and release a limited criminal history to the  
 41 following noncriminal justice organizations:  
 42 (1) Federally chartered or insured banking institutions.

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1 (2) Officials of state and local government for any of the  
2 following purposes:

3 (A) Employment with a state or local governmental entity.

4 (B) Licensing.

5 (3) Segments of the securities industry identified under 15 U.S.C.  
6 78q(f)(2).

7 (c) Any person who knowingly or intentionally uses limited criminal  
8 history for any purpose not specified under this section commits a  
9 Class A misdemeanor.

10 SECTION 3. IC 11-8-8-4.5, AS AMENDED BY P.L.72-2012,  
11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2013]: Sec. 4.5. (a) Except as provided in section 22 of this  
13 chapter, as used in this chapter, "sex offender" means a person  
14 convicted of any of the following offenses:

15 (1) Rape (IC 35-42-4-1).

16 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.

17 (3) Child molesting (IC 35-42-4-3).

18 (4) Child exploitation (IC 35-42-4-4(b)).

19 (5) Vicarious sexual gratification (including performing sexual  
20 conduct in the presence of a minor) (IC 35-42-4-5).

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

22 (7) Child seduction (IC 35-42-4-7).

23 (8) Sexual misconduct with a minor as a Class A, Class B, or  
24 Class C felony (IC 35-42-4-9), unless:

25 (A) the person is convicted of sexual misconduct with a minor  
26 as a Class C felony;

27 (B) the person is not more than:

28 (i) four (4) years older than the victim if the offense was  
29 committed after June 30, 2007; or

30 (ii) five (5) years older than the victim if the offense was  
31 committed before July 1, 2007; and

32 (C) the sentencing court finds that the person should not be  
33 required to register as a sex offender.

34 (9) Incest (IC 35-46-1-3).

35 (10) Sexual battery (IC 35-42-4-8).

36 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen  
37 (18) years of age, and the person who kidnapped the victim is not  
38 the victim's parent or guardian.

39 (12) Criminal confinement (IC 35-42-3-3), if the victim is less  
40 than eighteen (18) years of age, and the person who confined or  
41 removed the victim is not the victim's parent or guardian.

42 (13) Possession of child pornography (IC 35-42-4-4(c)).

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- 1 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.  
 2 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the  
 3 victim is less than eighteen (18) years of age.  
 4 (16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).  
 5 (17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less  
 6 than eighteen (18) years of age.  
 7 (18) Sexual misconduct by a service provider with a detained  
 8 child (IC 35-44-1-5(c)).  
 9 (19) An attempt or conspiracy to commit a crime listed in  
 10 subdivisions (1) through (18).  
 11 (20) A crime under the laws of another jurisdiction, including a  
 12 military court, that is substantially equivalent to any of the  
 13 offenses listed in subdivisions (1) through (19).  
 14 (b) The term includes:  
 15 (1) a person who is required to register as a sex offender in any  
 16 jurisdiction; and  
 17 (2) a child who has committed a delinquent act and who:  
 18 (A) is at least fourteen (14) years of age;  
 19 (B) is on probation, is on parole, is discharged from a facility  
 20 by the department of correction, is discharged from a secure  
 21 private facility (as defined in IC 31-9-2-115), or is discharged  
 22 from a juvenile detention facility as a result of an adjudication  
 23 as a delinquent child for an act that would be an offense  
 24 described in subsection (a) if committed by an adult; and  
 25 (C) is found by a court by clear and convincing evidence to be  
 26 likely to repeat an act that would be an offense described in  
 27 subsection (a) if committed by an adult.  
 28 (c) In making a determination under subsection (b)(2)(C), the court  
 29 shall consider expert testimony concerning whether a child is likely to  
 30 repeat an act that would be an offense described in subsection (a) if  
 31 committed by an adult.  
 32 SECTION 4. IC 11-8-8-5, AS AMENDED BY P.L.1-2012,  
 33 SECTION 3, AND AS AMENDED BY P.L.72-2012, SECTION 2, IS  
 34 CORRECTED AND AMENDED TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Except as provided in section  
 36 22 of this chapter, as used in this chapter, "sex or violent offender"  
 37 means a person convicted of any of the following offenses:  
 38 (1) Rape (IC 35-42-4-1).  
 39 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.  
 40 (3) Child molesting (IC 35-42-4-3).  
 41 (4) Child exploitation (IC 35-42-4-4(b)).  
 42 (5) Vicarious sexual gratification (including performing sexual

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- 1 conduct in the presence of a minor) (IC 35-42-4-5).  
 2 (6) Child solicitation (IC 35-42-4-6).  
 3 (7) Child seduction (IC 35-42-4-7).  
 4 (8) Sexual misconduct with a minor as a Class A, Class B, or  
 5 Class C felony (IC 35-42-4-9), unless:  
 6 (A) the person is convicted of sexual misconduct with a minor  
 7 as a Class C felony;  
 8 (B) the person is not more than:  
 9 (i) four (4) years older than the victim if the offense was  
 10 committed after June 30, 2007; or  
 11 (ii) five (5) years older than the victim if the offense was  
 12 committed before July 1, 2007; and  
 13 (C) the sentencing court finds that the person should not be  
 14 required to register as a sex offender.  
 15 (9) Incest (IC 35-46-1-3).  
 16 (10) Sexual battery (IC 35-42-4-8).  
 17 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen  
 18 (18) years of age, and the person who kidnapped the victim is not  
 19 the victim's parent or guardian.  
 20 (12) Criminal confinement (IC 35-42-3-3), if the victim is less  
 21 than eighteen (18) years of age, and the person who confined or  
 22 removed the victim is not the victim's parent or guardian.  
 23 (13) Possession of child pornography (IC 35-42-4-4(c)).  
 24 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.  
 25 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the  
 26 victim is less than eighteen (18) years of age.  
 27 (16) Sexual trafficking of a minor ~~(IC 35-42-3.5-1(b)).~~  
 28 ~~(IC 35-42-3.5-1(c)).~~  
 29 (17) Human trafficking ~~(IC 35-42-3.5-1(c)(3))~~  
 30 ~~(IC 35-42-3.5-1(d)(3))~~ if the victim is less than eighteen (18)  
 31 years of age.  
 32 (18) Murder (IC 35-42-1-1).  
 33 (19) Voluntary manslaughter (IC 35-42-1-3).  
 34 (20) *Sexual misconduct by a service provider with a detained*  
 35 *child* ~~(IC 35-44-1-5(e)).~~ **(IC 35-44.1-3-10(c)).**  
 36 ~~(20)~~ (21) An attempt or conspiracy to commit a crime listed in  
 37 subdivisions (1) through ~~(19)~~: (20).  
 38 ~~(21)~~ (22) A crime under the laws of another jurisdiction, including  
 39 a military court, that is substantially equivalent to any of the  
 40 offenses listed in subdivisions (1) through ~~(20)~~: (21).  
 41 (b) The term includes:  
 42 (1) a person who is required to register as a sex or violent

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- 1 offender in any jurisdiction; and
- 2 (2) a child who has committed a delinquent act and who:
  - 3 (A) is at least fourteen (14) years of age;
  - 4 (B) is on probation, is on parole, is discharged from a facility
  - 5 by the department of correction, is discharged from a secure
  - 6 private facility (as defined in IC 31-9-2-115), or is discharged
  - 7 from a juvenile detention facility as a result of an adjudication
  - 8 as a delinquent child for an act that would be an offense
  - 9 described in subsection (a) if committed by an adult; and
  - 10 (C) is found by a court by clear and convincing evidence to be
  - 11 likely to repeat an act that would be an offense described in
  - 12 subsection (a) if committed by an adult.

13 (c) In making a determination under subsection (b)(2)(C), the court  
 14 shall consider expert testimony concerning whether a child is likely to  
 15 repeat an act that would be an offense described in subsection (a) if  
 16 committed by an adult.

17 SECTION 5. IC 12-24-3-2 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. To provide greater  
 19 security for patients, visitors, and employees, the division may not  
 20 employ in a state institution an individual who has been convicted of  
 21 any of the following offenses:

- 22 (1) Rape (IC 35-42-4-1).
- 23 (2) Criminal deviate conduct (IC 35-42-4-2) (**repealed**).
- 24 (3) Child molesting (IC 35-42-4-3).
- 25 (4) Child exploitation (IC 35-42-4-4).
- 26 (5) Sexual misconduct with a minor as a Class A or **Class B**
- 27 felony (IC 35-42-4-9).

28 SECTION 6. IC 16-21-8-1, AS AMENDED BY P.L.41-2007,  
 29 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2013]: Sec. 1. (a) A hospital licensed under IC 16-21-2 that  
 31 provides general medical and surgical hospital services shall provide  
 32 forensic medical exams and additional forensic services to all alleged  
 33 sex crime victims who apply for forensic medical exams and additional  
 34 forensic services in relation to injuries or trauma resulting from the  
 35 alleged sex crime. The provision of services may not be dependent on  
 36 a victim's reporting to, or cooperating with, law enforcement.

37 (b) For the purposes of this chapter, the following crimes are  
 38 considered sex crimes:

- 39 (1) Rape (IC 35-42-4-1).
- 40 (2) Criminal deviate conduct (IC 35-42-4-2) (**repealed**).
- 41 (3) Child molesting (IC 35-42-4-3).
- 42 (4) Vicarious sexual gratification (IC 35-42-4-5).

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- 1 (5) Sexual battery (IC 35-42-4-8).
- 2 (6) Sexual misconduct with a minor (IC 35-42-4-9).
- 3 (7) Child solicitation (IC 35-42-4-6).
- 4 (8) Child seduction (IC 35-42-4-7).
- 5 (9) Incest (IC 35-46-1-3).

6 (c) Payment for services under this section shall be processed in  
 7 accordance with rules adopted by the victim services division of the  
 8 Indiana criminal justice institute.

9 SECTION 7. IC 16-25-6-1 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) A person may not  
 11 own or operate a hospice program if the person has:

- 12 (1) been convicted of rape (IC 35-42-4-1);
- 13 (2) been convicted of criminal deviate conduct (IC 35-42-4-2)
- 14 **(repealed);**
- 15 (3) been convicted of exploitation of a dependent or an
- 16 endangered adult (IC 35-46-1-12);
- 17 (4) had a judgment entered against the person for failure to report
- 18 battery, neglect, or exploitation of an endangered adult
- 19 (IC 35-46-1-13); or
- 20 (5) been convicted of theft (IC 35-43-4), if the person's conviction
- 21 for theft occurred less than ten (10) years before the date of
- 22 submission by the person of an application for licensure or
- 23 approval as a hospice program under IC 16-25-3.

24 (b) A person who knowingly or intentionally violates this section  
 25 commits a Class A misdemeanor.

26 SECTION 8. IC 16-25-6-3 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) Except as  
 28 provided in subsection (b), a person who owns or operates a hospice  
 29 program may not employ an individual or allow a volunteer to provide  
 30 hospice services if that individual's or volunteer's limited criminal  
 31 history indicates that the individual or volunteer has:

- 32 (1) been convicted of rape (IC 35-42-4-1);
- 33 (2) been convicted of criminal deviate conduct (IC 35-42-4-2)
- 34 **(repealed);**
- 35 (3) been convicted of exploitation of an endangered adult
- 36 (IC 35-46-1-12);
- 37 (4) had a judgment entered against the individual for failure to
- 38 report battery, neglect, or exploitation of an endangered adult
- 39 (IC 35-46-1-13); or
- 40 (5) been convicted of theft (IC 35-43-4), if the conviction for theft
- 41 occurred less than ten (10) years before the individual's
- 42 employment application date.

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1 (b) A hospice program may not employ an individual or allow a  
 2 volunteer to provide hospice services for more than twenty-one (21)  
 3 calendar days without receipt of that individual's or volunteer's limited  
 4 criminal history required by section 2 of this chapter, unless the Indiana  
 5 central repository for criminal history information under IC 10-13-3 is  
 6 solely responsible for failing to provide the individual's or volunteer's  
 7 limited criminal history to the hospice program within the time  
 8 required under this subsection.

9 SECTION 9. IC 16-27-2-3, AS AMENDED BY P.L.212-2005,  
 10 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2013]: Sec. 3. (a) A person may not operate a home health  
 12 agency or a personal services agency if the person has been convicted  
 13 of any of the following:

- 14 (1) Rape (IC 35-42-4-1).
- 15 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 16 (3) Exploitation of an endangered adult (IC 35-46-1-12).
- 17 (4) Failure to report battery, neglect, or exploitation of an  
 18 endangered adult (IC 35-46-1-13).
- 19 (5) Theft (IC 35-43-4), if the person's conviction for theft  
 20 occurred less than ten (10) years before the date of submission by  
 21 the person of an application for licensure as a home health agency  
 22 under IC 16-27-1 or as a personal services agency under  
 23 IC 16-27-4.

24 (b) A person who knowingly or intentionally violates this section  
 25 commits a Class A misdemeanor.

26 SECTION 10. IC 16-27-2-5, AS AMENDED BY P.L.84-2010,  
 27 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2013]: Sec. 5. (a) Except as provided in subsection (b), a  
 29 person who operates a home health agency under IC 16-27-1 or a  
 30 personal services agency under IC 16-27-4 may not employ a person to  
 31 provide services in a patient's or client's temporary or permanent  
 32 residence if that person's limited criminal history, national criminal  
 33 history background check, or expanded criminal history check indicates  
 34 that the person has been convicted of any of the following:

- 35 (1) Rape (IC 35-42-4-1).
- 36 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 37 (3) Exploitation of an endangered adult (IC 35-46-1-12).
- 38 (4) Failure to report battery, neglect, or exploitation of an  
 39 endangered adult (IC 35-46-1-13).
- 40 (5) Theft (IC 35-43-4), if the conviction for theft occurred less  
 41 than ten (10) years before the person's employment application  
 42 date.

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- 1 (6) A felony that is substantially equivalent to a felony listed in:
- 2 (A) subdivisions (1) through (4); or
- 3 (B) subdivision (5), if the conviction for theft occurred less
- 4 than ten (10) years before the person's employment application
- 5 date;
- 6 for which the conviction was entered in another state.

7 (b) A home health agency or personal services agency may not  
 8 employ a person to provide services in a patient's or client's temporary  
 9 or permanent residence for more than twenty-one (21) calendar days  
 10 without receipt of that person's limited criminal history, national  
 11 criminal history background check, or expanded criminal history check,  
 12 required by section 4 of this chapter, unless the state police department,  
 13 the Federal Bureau of Investigation under IC 10-13-3-39, or the private  
 14 agency providing the expanded criminal history check is responsible  
 15 for failing to provide the person's limited criminal history, national  
 16 criminal history background check, or expanded criminal history check  
 17 to the home health agency or personal services agency within the time  
 18 required under this subsection.

19 SECTION 11. IC 20-28-5-8, AS AMENDED BY P.L.78-2012,  
 20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2013]: Sec. 8. (a) This section applies when a prosecuting  
 22 attorney knows that a licensed employee of a public school or a  
 23 nonpublic school has been convicted of an offense listed in subsection  
 24 (c). The prosecuting attorney shall immediately give written notice of  
 25 the conviction to the following:

- 26 (1) The state superintendent.
- 27 (2) Except as provided in subdivision (3), the superintendent of
- 28 the school corporation that employs the licensed employee or the
- 29 equivalent authority if a nonpublic school employs the licensed
- 30 employee.
- 31 (3) The presiding officer of the governing body of the school
- 32 corporation that employs the licensed employee, if the convicted
- 33 licensed employee is the superintendent of the school corporation.

34 (b) The superintendent of a school corporation, presiding officer of  
 35 the governing body, or equivalent authority for a nonpublic school shall  
 36 immediately notify the state superintendent when the individual knows  
 37 that a current or former licensed employee of the public school or  
 38 nonpublic school has been convicted of an offense listed in subsection  
 39 (c), or when the governing body or equivalent authority for a nonpublic  
 40 school takes any final action in relation to an employee who engaged  
 41 in any offense listed in subsection (c).

42 (c) The department, after holding a hearing on the matter, shall

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1 permanently revoke the license of a person who is known by the  
2 department to have been convicted of any of the following felonies:

- 3 (1) Kidnapping (IC 35-42-3-2).  
4 (2) Criminal confinement (IC 35-42-3-3).  
5 (3) Rape (IC 35-42-4-1).  
6 (4) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.  
7 (5) Child molesting (IC 35-42-4-3).  
8 (6) Child exploitation (IC 35-42-4-4(b)).  
9 (7) Vicarious sexual gratification (IC 35-42-4-5).  
10 (8) Child solicitation (IC 35-42-4-6).  
11 (9) Child seduction (IC 35-42-4-7).  
12 (10) Sexual misconduct with a minor (IC 35-42-4-9).  
13 (11) Incest (IC 35-46-1-3).  
14 (12) Dealing in or manufacturing cocaine or a narcotic drug  
15 (IC 35-48-4-1).  
16 (13) Dealing in methamphetamine (IC 35-48-4-1.1).  
17 (14) Dealing in a schedule I, II, or III controlled substance  
18 (IC 35-48-4-2).  
19 (15) Dealing in a schedule IV controlled substance  
20 (IC 35-48-4-3).  
21 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).  
22 (17) Dealing in a counterfeit substance (IC 35-48-4-5).  
23 (18) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic  
24 drug (IC 35-48-4-10(b)).  
25 (19) Possession of child pornography (IC 35-42-4-4(c)).  
26 (20) Homicide (IC 35-42-1).  
27 (21) Voluntary manslaughter (IC 35-42-1-3).  
28 (22) Reckless homicide (IC 35-42-1-5).  
29 (23) Battery as any of the following:  
30 (A) A Class A felony (IC 35-42-2-1(a)(5)).  
31 (B) A Class B felony (IC 35-42-2-1(a)(4)).  
32 (C) A Class C felony (IC 35-42-2-1(a)(3)).  
33 (24) Aggravated battery (IC 35-42-2-1.5).  
34 (25) Robbery (IC 35-42-5-1).  
35 (26) Carjacking (IC 35-42-5-2).  
36 (27) Arson as a Class A felony or a Class B felony  
37 (IC 35-43-1-1(a)).  
38 (28) Burglary as a Class A felony or a Class B felony  
39 (IC 35-43-2-1).  
40 (29) Attempt under IC 35-41-5-1 to commit an offense listed in  
41 subdivisions (1) through (28).  
42 (30) Conspiracy under IC 35-41-5-2 to commit an offense listed

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1 in subdivisions (1) through (28).

2 (d) The department, after holding a hearing on the matter, shall  
3 permanently revoke the license of a person who is known by the  
4 department to have been convicted of a federal offense or an offense in  
5 another state that is comparable to a felony listed in subsection (c).

6 (e) A license may be suspended by the state superintendent as  
7 specified in IC 20-28-7.5.

8 (f) The department shall develop a data base of information on  
9 school corporation employees who have been reported to the  
10 department under this section.

11 SECTION 12. IC 22-5-5-1 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. The employment  
13 contract of a person who:

- 14 (1) works with children; and
- 15 (2) is convicted of:
  - 16 (A) rape (IC 35-42-4-1), if the victim is less than eighteen (18)
  - 17 years of age;
  - 18 (B) criminal deviate conduct (IC 35-42-4-2) (**repealed**), if the
  - 19 victim is less than eighteen (18) years of age;
  - 20 (C) child molesting (IC 35-42-4-3);
  - 21 (D) child exploitation (IC 35-42-4-4(b));
  - 22 (E) vicarious sexual gratification (IC 35-42-4-5);
  - 23 (F) child solicitation (IC 35-42-4-6);
  - 24 (G) child seduction (IC 35-42-4-7); or
  - 25 (H) incest (IC 35-46-1-3), if the victim is less than eighteen
  - 26 (18) years of age;

27 may be canceled by the person's employer.

28 SECTION 13. IC 29-3-7-7, AS ADDED BY P.L.131-2009,  
29 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2013]: Sec. 7. A court may not appoint a person to serve as  
31 the guardian or permit a person to continue to serve as a guardian if the  
32 person:

- 33 (1) is a sexually violent predator (as described in IC 35-38-1-7.5);
- 34 (2) was at least eighteen (18) years of age at the time of the
- 35 offense and was convicted of child molesting (IC 35-42-4-3) or
- 36 sexual misconduct with a minor (IC 35-42-4-9) against a child
- 37 less than sixteen (16) years of age:
  - 38 (A) by using or threatening the use of deadly force;
  - 39 (B) while armed with a deadly weapon; or
  - 40 (C) that resulted in serious bodily injury; or
- 41 (3) was less than eighteen (18) years of age at the time of the
- 42 offense and was convicted as an adult of:

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- 1 (A) an offense described in:  
 2 (i) IC 35-42-4-1;  
 3 (ii) IC 35-42-4-2 **(before its repeal)**;  
 4 (iii) IC 35-42-4-3 as a Class A or Class B felony;  
 5 (iv) IC 35-42-4-5(a)(1);  
 6 (v) IC 35-42-4-5(a)(2);  
 7 (vi) IC 35-42-4-5(a)(3);  
 8 (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;  
 9 (viii) IC 35-42-4-5(b)(2); or  
 10 (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;  
 11 (B) an attempt or conspiracy to commit a crime listed in clause  
 12 (A); or  
 13 (C) a crime under the laws of another jurisdiction, including a  
 14 military court, that is substantially equivalent to any of the  
 15 offenses listed in clauses (A) and (B).

16 SECTION 14. IC 31-19-9-10 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A court shall  
 18 determine that consent to adoption is not required from a parent if:

- 19 (1) the parent is convicted of and incarcerated at the time of the  
 20 filing of a petition for adoption for:  
 21 (A) murder (IC 35-42-1-1);  
 22 (B) causing suicide (IC 35-42-1-2);  
 23 (C) voluntary manslaughter (IC 35-42-1-3);  
 24 (D) rape (IC 35-42-4-1);  
 25 (E) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;  
 26 (F) child molesting as a Class A or Class B felony  
 27 (IC 35-42-4-3);  
 28 (G) incest as a Class B felony (IC 35-46-1-3);  
 29 (H) neglect of a dependent as a Class B felony (IC 35-46-1-4);  
 30 (I) battery of a child as a Class C felony (IC 35-42-2-1(a)(3));  
 31 (J) battery as a Class A felony (IC 35-42-2-1(a)(5)) or Class B  
 32 felony (IC 35-42-2-1(a)(4)); or  
 33 (K) an attempt under IC 35-41-5-1 to commit an offense  
 34 described in clauses (A) through (J);  
 35 (2) the child or the child's sibling, half-blood sibling, or  
 36 step-sibling of the parent's current marriage is the victim of the  
 37 offense; and  
 38 (3) after notice to the parent and a hearing, the court determines  
 39 that dispensing with the parent's consent to adoption is in the  
 40 child's best interests.

41 SECTION 15. IC 31-30-1-2.5, AS AMENDED BY P.L.131-2009,  
 42 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2013]: Sec. 2.5. A juvenile court may not appoint a person to  
 2 serve as the guardian or custodian of a child or permit a person to  
 3 continue to serve as a guardian or custodian of a child if the person:  
 4 (1) is a sexually violent predator (as described in IC 35-38-1-7.5);  
 5 (2) was at least eighteen (18) years of age at the time of the  
 6 offense and committed child molesting (IC 35-42-4-3) or sexual  
 7 misconduct with a minor (IC 35-42-4-9) against a child less than  
 8 sixteen (16) years of age:  
 9 (A) by using or threatening the use of deadly force;  
 10 (B) while armed with a deadly weapon; or  
 11 (C) that resulted in serious bodily injury; or  
 12 (3) was less than eighteen (18) years of age at the time of the  
 13 offense but was tried and convicted as an adult of:  
 14 (A) an offense described in:  
 15 (i) IC 35-42-4-1;  
 16 (ii) IC 35-42-4-2 (**before its repeal**);  
 17 (iii) IC 35-42-4-3 as a Class A or Class B felony;  
 18 (iv) IC 35-42-4-5(a)(1);  
 19 (v) IC 35-42-4-5(a)(2);  
 20 (vi) IC 35-42-4-5(a)(3);  
 21 (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;  
 22 (viii) IC 35-42-4-5(b)(2); or  
 23 (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;  
 24 (B) an attempt or conspiracy to commit a crime listed in clause  
 25 (A); or  
 26 (C) a crime under the laws of another jurisdiction, including a  
 27 military court, that is substantially equivalent to any of the  
 28 offenses listed in clauses (A) and (B).  
 29 SECTION 16. IC 31-30-1-4, AS AMENDED BY P.L.67-2008,  
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2013]: Sec. 4. (a) The juvenile court does not have jurisdiction  
 32 over an individual for an alleged violation of:  
 33 (1) IC 35-41-5-1(a) (attempted murder);  
 34 (2) IC 35-42-1-1 (murder);  
 35 (3) IC 35-42-3-2 (kidnapping);  
 36 (4) IC 35-42-4-1 (rape);  
 37 (5) IC 35-42-4-2 (criminal deviate conduct) (**repealed**);  
 38 (6) IC 35-42-5-1 (robbery) if:  
 39 (A) the robbery was committed while armed with a deadly  
 40 weapon; or  
 41 (B) the robbery results in bodily injury or serious bodily  
 42 injury;

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1 (7) IC 35-42-5-2 (carjacking);  
 2 (8) IC 35-45-9-3 (criminal gang activity);  
 3 (9) IC 35-45-9-4 (criminal gang intimidation);  
 4 (10) IC 35-47-2-1 (carrying a handgun without a license), if  
 5 charged as a felony;  
 6 (11) IC 35-47-10 (children and firearms), if charged as a felony;  
 7 (12) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or  
 8 (13) any offense that may be joined under IC 35-34-1-9(a)(2) with  
 9 any crime listed in subdivisions (1) through (12);  
 10 if the individual was at least sixteen (16) years of age at the time of the  
 11 alleged violation.

12 (b) The juvenile court does not have jurisdiction for an alleged  
 13 violation of manufacturing or dealing in cocaine or a narcotic drug  
 14 (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing  
 15 in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing  
 16 in a schedule IV controlled substance (IC 35-48-4-3), if:

- 17 (1) the individual has a prior unrelated conviction under
- 18 IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or
- 19 (2) the individual has a prior unrelated juvenile adjudication that,
- 20 if committed by an adult, would be a crime under IC 35-48-4-1,
- 21 IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;

22 and the individual was at least sixteen (16) years of age at the time of  
 23 the alleged violation.

24 (c) Once an individual described in subsection (a) or (b) has been  
 25 charged with any crime listed in subsection (a) or (b), the court having  
 26 adult criminal jurisdiction shall retain jurisdiction over the case even  
 27 if the individual pleads guilty to or is convicted of a lesser included  
 28 offense. A plea of guilty to or a conviction of a lesser included offense  
 29 does not vest jurisdiction in the juvenile court.

30 SECTION 17. IC 31-34-1-3 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A child is a child  
 32 in need of services if, before the child becomes eighteen (18) years of  
 33 age:

- 34 (1) the child is the victim of a sex offense under:
  - 35 (A) IC 35-42-4-1;
  - 36 (B) IC 35-42-4-2 (**repealed**);
  - 37 (C) IC 35-42-4-3;
  - 38 (D) IC 35-42-4-4;
  - 39 (E) IC 35-42-4-7;
  - 40 (F) IC 35-42-4-9;
  - 41 (G) IC 35-45-4-1;
  - 42 (H) IC 35-45-4-2;

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- 1 (I) IC 35-46-1-3; or
- 2 (J) the law of another jurisdiction, including a military court,
- 3 that is substantially equivalent to any of the offenses listed in
- 4 clauses (A) through (I); and
- 5 (2) the child needs care, treatment, or rehabilitation that:
- 6 (A) the child is not receiving; and
- 7 (B) is unlikely to be provided or accepted without the coercive
- 8 intervention of the court.
- 9 (b) A child is a child in need of services if, before the child becomes
- 10 eighteen (18) years of age:
- 11 (1) the child lives in the same household as another child who is
- 12 the victim of a sex offense under:
- 13 (A) IC 35-42-4-1;
- 14 (B) IC 35-42-4-2 (**repealed**);
- 15 (C) IC 35-42-4-3;
- 16 (D) IC 35-42-4-4;
- 17 (E) IC 35-42-4-7;
- 18 (F) IC 35-42-4-9;
- 19 (G) IC 35-45-4-1;
- 20 (H) IC 35-45-4-2;
- 21 (I) IC 35-46-1-3; or
- 22 (J) the law of another jurisdiction, including a military court,
- 23 that is substantially equivalent to any of the offenses listed in
- 24 clauses (A) through (I);
- 25 (2) the child lives in the same household as the adult who
- 26 committed the sex offense under subdivision (1) and the sex
- 27 offense resulted in a conviction or a judgment under
- 28 IC 31-34-11-2;
- 29 (3) the child needs care, treatment, or rehabilitation that:
- 30 (A) the child is not receiving; and
- 31 (B) is unlikely to be provided or accepted without the coercive
- 32 intervention of the court; and
- 33 (4) a caseworker assigned to provide services to the child:
- 34 (A) places the child in a program of informal adjustment or
- 35 other family or rehabilitative services based upon the existence
- 36 of the circumstances described in subdivisions (1) and (2) and
- 37 the assigned caseworker subsequently determines further
- 38 intervention is necessary; or
- 39 (B) determines that a program of informal adjustment or other
- 40 family or rehabilitative services is inappropriate.

41 SECTION 18. IC 31-35-3-4, AS AMENDED BY P.L.146-2008,  
 42 SECTION 618, IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2013]: Sec. 4. If:

- 2 (1) an individual is convicted of the offense of:
- 3 (A) murder (IC 35-42-1-1);
- 4 (B) causing suicide (IC 35-42-1-2);
- 5 (C) voluntary manslaughter (IC 35-42-1-3);
- 6 (D) involuntary manslaughter (IC 35-42-1-4);
- 7 (E) rape (IC 35-42-4-1);
- 8 (F) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
- 9 (G) child molesting (IC 35-42-4-3);
- 10 (H) child exploitation (IC 35-42-4-4);
- 11 (I) sexual misconduct with a minor (IC 35-42-4-9); or
- 12 (J) incest (IC 35-46-1-3); and
- 13 (2) the victim of the offense:
- 14 (A) was less than sixteen (16) years of age at the time of the
- 15 offense; and
- 16 (B) is:
- 17 (i) the individual's biological or adoptive child; or
- 18 (ii) the child of a spouse of the individual who has
- 19 committed the offense;

20 the attorney for the department, the child's guardian ad litem, or the

21 court appointed special advocate may file a petition with the juvenile

22 or probate court to terminate the parent-child relationship of the

23 individual who has committed the offense with the victim of the

24 offense, the victim's siblings, or any biological or adoptive child of that

25 individual.

26 SECTION 19. IC 31-37-19-9, AS AMENDED BY P.L.173-2006,

27 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

28 JULY 1, 2013]: Sec. 9. (a) This section applies if a child is a delinquent

29 child under IC 31-37-1.

30 (b) After a juvenile court makes a determination under IC 11-8-8-5,

31 the juvenile court may, in addition to an order under section 6 of this

32 chapter, and if the child:

- 33 (1) is at least thirteen (13) years of age and less than sixteen (16)
- 34 years of age; and
- 35 (2) committed an act that, if committed by an adult, would be:
- 36 (A) murder (IC 35-42-1-1);
- 37 (B) kidnapping (IC 35-42-3-2);
- 38 (C) rape (IC 35-42-4-1);
- 39 (D) criminal deviate conduct (IC 35-42-4-2) **(repealed)**; or
- 40 (E) robbery (IC 35-42-5-1) if the robbery was committed while
- 41 armed with a deadly weapon or if the robbery resulted in
- 42 bodily injury or serious bodily injury;

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1 order wardship of the child to the department of correction for a fixed  
 2 period that is not longer than the date the child becomes eighteen (18)  
 3 years of age, subject to IC 11-10-2-10.

4 (c) Notwithstanding IC 11-10-2-5, the department of correction may  
 5 not reduce the period ordered under this section (or  
 6 IC 31-6-4-15.9(b)(8) before its repeal).

7 SECTION 20. IC 33-37-5-12 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. The court shall  
 9 order a person to pay a child abuse prevention fee of one hundred  
 10 dollars (\$100) to the clerk in each criminal action in which:

- 11 (1) the person is found to have committed the offense of:
- 12 (A) murder (IC 35-42-1-1);
  - 13 (B) causing suicide (IC 35-42-1-2);
  - 14 (C) voluntary manslaughter (IC 35-42-1-3);
  - 15 (D) reckless homicide (IC 35-42-1-5);
  - 16 (E) battery (IC 35-42-2-1);
  - 17 (F) rape (IC 35-42-4-1);
  - 18 (G) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
  - 19 (H) child molesting (IC 35-42-4-3);
  - 20 (I) child exploitation (IC 35-42-4-4);
  - 21 (J) vicarious sexual gratification (IC 35-42-4-5);
  - 22 (K) child solicitation (IC 35-42-4-6);
  - 23 (L) incest (IC 35-46-1-3);
  - 24 (M) neglect of a dependent (IC 35-46-1-4);
  - 25 (N) child selling (IC 35-46-1-4); or
  - 26 (O) child seduction (IC 35-42-4-7); and
- 27 (2) the victim of the offense is less than eighteen (18) years of  
 28 age.

29 SECTION 21. IC 33-37-5-23 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 23. (a) This section  
 31 applies to criminal actions.

32 (b) The court shall assess a sexual assault victims assistance fee of  
 33 at least two hundred fifty dollars (\$250) and not more than one  
 34 thousand dollars (\$1,000) against an individual convicted in Indiana of  
 35 any of the following offenses:

- 36 (1) Rape (IC 35-42-4-1).
- 37 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 38 (3) Child molesting (IC 35-42-4-3).
- 39 (4) Child exploitation (IC 35-42-4-4(b)).
- 40 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 41 (6) Child solicitation (IC 35-42-4-6).
- 42 (7) Child seduction (IC 35-42-4-7).



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- 1 (8) Sexual battery (IC 35-42-4-8).
- 2 (9) Sexual misconduct with a minor as a Class A or Class B
- 3 felony (IC 35-42-4-9).
- 4 (10) Incest (IC 35-46-1-3).

5 SECTION 22. IC 33-39-1-9 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. A prosecuting  
 7 attorney who charges a person with committing any of the following  
 8 shall inform the person's employer of the charge, unless the prosecuting  
 9 attorney determines that the person charged does not work with  
 10 children:

- 11 (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
- 12 years of age.
- 13 (2) Criminal deviate conduct (IC 35-42-4-2) (**repealed**), if the
- 14 victim is less than eighteen (18) years of age.
- 15 (3) Child molesting (IC 35-42-4-3).
- 16 (4) Child exploitation (IC 35-42-4-4(b)).
- 17 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 18 (6) Child solicitation (IC 35-42-4-6).
- 19 (7) Child seduction (IC 35-42-4-7).
- 20 (8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)
- 21 years of age.

22 SECTION 23. IC 35-31.5-2-216, AS ADDED BY P.L.114-2012,  
 23 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2013]: Sec. 216. "Offense relating to a criminal sexual act"  
 25 means the following:

- 26 (1) Rape (IC 35-42-4-1).
- 27 (2) Criminal deviate conduct (IC 35-42-4-2) (**repealed**).
- 28 (3) Child molesting (IC 35-42-4-3).
- 29 (4) Child seduction (IC 35-42-4-7).
- 30 (5) Prostitution (IC 35-45-4-2).
- 31 (6) Patronizing a prostitute (IC 35-45-4-3).
- 32 (7) Incest (IC 35-46-1-3).
- 33 (8) Sexual misconduct with a minor under IC 35-42-4-9(a).

34 SECTION 24. IC 35-38-1-7.5, AS AMENDED BY P.L.216-2007,  
 35 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2013]: Sec. 7.5. (a) As used in this section, "sexually violent  
 37 predator" means a person who suffers from a mental abnormality or  
 38 personality disorder that makes the individual likely to repeatedly  
 39 commit a sex offense (as defined in IC 11-8-8-5.2). The term includes  
 40 a person convicted in another jurisdiction who is identified as a  
 41 sexually violent predator under IC 11-8-8-20. The term does not  
 42 include a person no longer considered a sexually violent predator under

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- 1 subsection (g).  
 2 (b) A person who:  
 3 (1) being at least eighteen (18) years of age, commits an offense  
 4 described in:  
 5 (A) IC 35-42-4-1;  
 6 (B) IC 35-42-4-2 **(before its repeal)**;  
 7 (C) IC 35-42-4-3 as a Class A or Class B felony;  
 8 (D) IC 35-42-4-5(a)(1);  
 9 (E) IC 35-42-4-5(a)(2);  
 10 (F) IC 35-42-4-5(a)(3);  
 11 (G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;  
 12 (H) IC 35-42-4-5(b)(2);  
 13 (I) IC 35-42-4-5(b)(3) as a Class A or Class B felony;  
 14 (J) an attempt or conspiracy to commit a crime listed in  
 15 clauses (A) through (I); or  
 16 (K) a crime under the laws of another jurisdiction, including  
 17 a military court, that is substantially equivalent to any of the  
 18 offenses listed in clauses (A) through (J);  
 19 (2) commits a sex offense (as defined in IC 11-8-8-5.2) while  
 20 having a previous unrelated conviction for a sex offense for which  
 21 the person is required to register as a sex or violent offender under  
 22 IC 11-8-8;  
 23 (3) commits a sex offense (as defined in IC 11-8-8-5.2) while  
 24 having had a previous unrelated adjudication as a delinquent child  
 25 for an act that would be a sex offense if committed by an adult, if,  
 26 after considering expert testimony, a court finds by clear and  
 27 convincing evidence that the person is likely to commit an  
 28 additional sex offense; or  
 29 (4) commits a sex offense (as defined in IC 11-8-8-5.2) while  
 30 having had a previous unrelated adjudication as a delinquent child  
 31 for an act that would be a sex offense if committed by an adult, if  
 32 the person was required to register as a sex or violent offender  
 33 under IC 11-8-8-5(b)(2);  
 34 is a sexually violent predator. Except as provided in subsection (g) or  
 35 (h), a person is a sexually violent predator by operation of law if an  
 36 offense committed by the person satisfies the conditions set forth in  
 37 subdivision (1) or (2) and the person was released from incarceration,  
 38 secure detention, or probation for the offense after June 30, 1994.  
 39 (c) This section applies whenever a court sentences a person or a  
 40 juvenile court issues a dispositional decree for a sex offense (as defined  
 41 in IC 11-8-8-5.2) for which the person is required to register with the  
 42 local law enforcement authority under IC 11-8-8.

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1 (d) At the sentencing hearing, the court shall indicate on the record  
2 whether the person has been convicted of an offense that makes the  
3 person a sexually violent predator under subsection (b).

4 (e) If a person is not a sexually violent predator under subsection  
5 (b), the prosecuting attorney may request the court to conduct a hearing  
6 to determine whether the person (including a child adjudicated to be a  
7 delinquent child) is a sexually violent predator under subsection (a). If  
8 the court grants the motion, the court shall appoint two (2)  
9 psychologists or psychiatrists who have expertise in criminal  
10 behavioral disorders to evaluate the person and testify at the hearing.  
11 After conducting the hearing and considering the testimony of the two  
12 (2) psychologists or psychiatrists, the court shall determine whether the  
13 person is a sexually violent predator under subsection (a). A hearing  
14 conducted under this subsection may be combined with the person's  
15 sentencing hearing.

16 (f) If a person is a sexually violent predator:

17 (1) the person is required to register with the local law  
18 enforcement authority as provided in IC 11-8-8; and

19 (2) the court shall send notice to the department of correction.

20 (g) This subsection does not apply to a person who has two (2) or  
21 more unrelated convictions for an offense described in IC 11-8-8-4.5  
22 for which the person is required to register under IC 11-8-8. A person  
23 who is a sexually violent predator may petition the court to consider  
24 whether the person should no longer be considered a sexually violent  
25 predator. The person may file a petition under this subsection not  
26 earlier than ten (10) years after:

27 (1) the sentencing court or juvenile court makes its determination  
28 under subsection (e); or

29 (2) the person is released from incarceration or secure detention.

30 A person may file a petition under this subsection not more than one  
31 (1) time per year. A court may dismiss a petition filed under this  
32 subsection or conduct a hearing to determine if the person should no  
33 longer be considered a sexually violent predator. If the court conducts  
34 a hearing, the court shall appoint two (2) psychologists or psychiatrists  
35 who have expertise in criminal behavioral disorders to evaluate the  
36 person and testify at the hearing. After conducting the hearing and  
37 considering the testimony of the two (2) psychologists or psychiatrists,  
38 the court shall determine whether the person should no longer be  
39 considered a sexually violent predator under subsection (a). If a court  
40 finds that the person should no longer be considered a sexually violent  
41 predator, the court shall send notice to the department of correction that  
42 the person is no longer considered a sexually violent predator.

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1 Notwithstanding any other law, a condition imposed on a person due  
 2 to the person's status as a sexually violent predator, including lifetime  
 3 parole or GPS monitoring, does not apply to a person no longer  
 4 considered a sexually violent predator.

5 (h) A person is not a sexually violent predator by operation of law  
 6 under subsection (b)(1) if all of the following conditions are met:

7 (1) The victim was not less than twelve (12) years of age at the  
 8 time the offense was committed.

9 (2) The person is not more than four (4) years older than the  
 10 victim.

11 (3) The relationship between the person and the victim was a  
 12 dating relationship or an ongoing personal relationship. The term  
 13 "ongoing personal relationship" does not include a family  
 14 relationship.

15 (4) The offense committed by the person was not any of the  
 16 following:

17 (A) Rape (IC 35-42-4-1).

18 (B) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.

19 (C) An offense committed by using or threatening the use of  
 20 deadly force or while armed with a deadly weapon.

21 (D) An offense that results in serious bodily injury.

22 (E) An offense that is facilitated by furnishing the victim,  
 23 without the victim's knowledge, with a drug (as defined in  
 24 IC 16-42-19-2(1)) or a controlled substance (as defined in  
 25 IC 35-48-1-9) or knowing that the victim was furnished with  
 26 the drug or controlled substance without the victim's  
 27 knowledge.

28 (5) The person has not committed another sex offense (as defined  
 29 in IC 11-8-8-5.2) (including a delinquent act that would be a sex  
 30 offense if committed by an adult) against any other person.

31 (6) The person did not have a position of authority or substantial  
 32 influence over the victim.

33 (7) The court finds that the person should not be considered a  
 34 sexually violent predator.

35 SECTION 25. IC 35-38-2-2.5, AS AMENDED BY P.L.216-2007,  
 36 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2013]: Sec. 2.5. (a) As used in this section, "offender" means  
 38 an individual convicted of a sex offense.

39 (b) As used in this section, "sex offense" means any of the  
 40 following:

41 (1) Rape (IC 35-42-4-1).

42 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.

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- 1 (3) Child molesting (IC 35-42-4-3).  
 2 (4) Child exploitation (IC 35-42-4-4(b)).  
 3 (5) Vicarious sexual gratification (IC 35-42-4-5).  
 4 (6) Child solicitation (IC 35-42-4-6).  
 5 (7) Child seduction (IC 35-42-4-7).  
 6 (8) Sexual battery (IC 35-42-4-8).  
 7 (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).  
 8 (10) Incest (IC 35-46-1-3).  
 9 (c) A condition of remaining on probation or parole after conviction  
 10 for a sex offense is that the offender not reside within one (1) mile of  
 11 the residence of the victim of the offender's sex offense.  
 12 (d) An offender:  
 13 (1) who will be placed on probation shall provide the sentencing  
 14 court and the probation department with the address where the  
 15 offender intends to reside during the period of probation:  
 16 (A) at the time of sentencing if the offender will be placed on  
 17 probation without first being incarcerated; or  
 18 (B) before the offender's release from incarceration if the  
 19 offender will be placed on probation after completing a term  
 20 of incarceration; or  
 21 (2) who will be placed on parole shall provide the parole board  
 22 with the address where the offender intends to reside during the  
 23 period of parole.  
 24 (e) An offender, while on probation or parole, may not establish a  
 25 new residence within one (1) mile of the residence of the victim of the  
 26 offender's sex offense unless the offender first obtains a waiver from  
 27 the:  
 28 (1) court, if the offender is placed on probation; or  
 29 (2) parole board, if the offender is placed on parole;  
 30 for the change of address under subsection (f).  
 31 (f) The court or parole board may waive the requirement set forth in  
 32 subsection (c) only if the court or parole board, at a hearing at which  
 33 the offender is present and of which the prosecuting attorney has been  
 34 notified, determines that:  
 35 (1) the offender has successfully completed a sex offender  
 36 treatment program during the period of probation or parole;  
 37 (2) the offender is in compliance with all terms of the offender's  
 38 probation or parole; and  
 39 (3) good cause exists to allow the offender to reside within one (1)  
 40 mile of the residence of the victim of the offender's sex offense.  
 41 However, the court or parole board may not grant a waiver under this  
 42 subsection if the offender is a sexually violent predator under

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1 IC 35-38-1-7.5 or if the offender is an offender against children under  
2 IC 35-42-4-11.

3 (g) If the court or parole board grants a waiver under subsection (f),  
4 the court or parole board shall state in writing the reasons for granting  
5 the waiver. The court's written statement of its reasons shall be  
6 incorporated into the record.

7 (h) The address of the victim of the offender's sex offense is  
8 confidential even if the court or parole board grants a waiver under  
9 subsection (f).

10 SECTION 26. IC 35-42-1-1, AS AMENDED BY P.L.1-2007,  
11 SECTION 230, IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2013]: Sec. 1. A person who:

- 13 (1) knowingly or intentionally kills another human being;
- 14 (2) kills another human being while committing or attempting to  
15 commit arson, burglary, child molesting, consumer product  
16 tampering, criminal deviate conduct (**under IC 35-42-4-2 before  
17 its repeal**), kidnapping, rape, robbery, human trafficking,  
18 promotion of human trafficking, sexual trafficking of a minor, or  
19 carjacking;
- 20 (3) kills another human being while committing or attempting to  
21 commit:
  - 22 (A) dealing in or manufacturing cocaine or a narcotic drug  
23 (IC 35-48-4-1);
  - 24 (B) dealing in or manufacturing methamphetamine  
25 (IC 35-48-4-1.1);
  - 26 (C) dealing in a schedule I, II, or III controlled substance  
27 (IC 35-48-4-2);
  - 28 (D) dealing in a schedule IV controlled substance  
29 (IC 35-48-4-3); or
  - 30 (E) dealing in a schedule V controlled substance; or
- 31 (4) knowingly or intentionally kills a fetus that has attained  
32 viability (as defined in IC 16-18-2-365);

33 commits murder, a felony.

34 SECTION 27. IC 35-42-4-1 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Except as  
36 provided in subsection (b), a person who knowingly or intentionally has  
37 sexual intercourse with a member of the opposite sex **or knowingly or  
38 intentionally causes another person to perform or submit to  
39 deviate sexual conduct** when:

- 40 (1) the other person is compelled by force or imminent threat of  
41 force;
- 42 (2) the other person is unaware that the sexual intercourse **or**

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1           **deviate sexual conduct** is occurring; or  
 2           (3) the other person is so mentally disabled or deficient that  
 3           consent to sexual intercourse **or deviate sexual conduct** cannot  
 4           be given;  
 5           commits rape, a Class B felony.

6           (b) An offense described in subsection (a) is a Class A felony if:  
 7           (1) it is committed by using or threatening the use of deadly force;  
 8           (2) it is committed while armed with a deadly weapon;  
 9           (3) it results in serious bodily injury to a person other than a  
 10          defendant; or  
 11          (4) the commission of the offense is facilitated by furnishing the  
 12          victim, without the victim's knowledge, with a drug (as defined in  
 13          IC 16-42-19-2(1)) or a controlled substance (as defined in  
 14          IC 35-48-1-9) or knowing that the victim was furnished with the  
 15          drug or controlled substance without the victim's knowledge.

16          SECTION 28. IC 35-42-4-2 IS REPEALED [EFFECTIVE JULY 1,  
 17          2013]. Sec. 2: (a) A person who knowingly or intentionally causes  
 18          another person to perform or submit to deviate sexual conduct when:

19           (1) the other person is compelled by force or imminent threat of  
 20           force;  
 21           (2) the other person is unaware that the conduct is occurring; or  
 22           (3) the other person is so mentally disabled or deficient that  
 23           consent to the conduct cannot be given;

24          commits criminal deviate conduct, a Class B felony:

25          (b) An offense described in subsection (a) is a Class A felony if:  
 26          (1) it is committed by using or threatening the use of deadly force;  
 27          (2) it is committed while armed with a deadly weapon;  
 28          (3) it results in serious bodily injury to any person other than a  
 29          defendant; or  
 30          (4) the commission of the offense is facilitated by furnishing the  
 31          victim, without the victim's knowledge, with a drug (as defined in  
 32          IC 16-42-19-2(1)) or a controlled substance (as defined in  
 33          IC 35-48-1-9) or knowing that the victim was furnished with the  
 34          drug or controlled substance without the victim's knowledge.

35          SECTION 29. IC 35-47-4-5, AS AMENDED BY P.L.126-2012,  
 36          SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37          JULY 1, 2013]: Sec. 5. (a) As used in this section, "serious violent  
 38          felon" means a person who has been convicted of:

39           (1) committing a serious violent felony in:  
 40           (A) Indiana; or  
 41           (B) any other jurisdiction in which the elements of the crime  
 42           for which the conviction was entered are substantially similar

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

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- 1 (23) dealing in or manufacturing cocaine or a narcotic drug  
 2 (IC 35-48-4-1);  
 3 (24) dealing in methamphetamine (IC 35-48-4-1.1);  
 4 (25) dealing in a schedule I, II, or III controlled substance  
 5 (IC 35-48-4-2);  
 6 (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);  
 7 or  
 8 (27) dealing in a schedule V controlled substance (IC 35-48-4-4).

9 (c) A serious violent felon who knowingly or intentionally possesses  
 10 a firearm commits unlawful possession of a firearm by a serious violent  
 11 felon, a Class B felony.

12 SECTION 30. IC 35-50-1-2, AS AMENDED BY P.L.125-2012,  
 13 SECTION 416, AND AS AMENDED BY P.L.126-2012, SECTION  
 14 59, IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) As used in this section,  
 16 "crime of violence" means the following:

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

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

42 (c) Except as provided in subsection (d) or (e), the court shall

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1 determine whether terms of imprisonment shall be served concurrently  
2 or consecutively. The court may consider the:

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

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

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

- 16 (1) before the date the person is discharged from probation,
- 17 parole, or a term of imprisonment imposed for the first crime; or
- 18 (2) while the person is released:
  - 19 (A) upon the person's own recognizance; or
  - 20 (B) on bond;

21 the terms of imprisonment for the crimes shall be served consecutively,  
22 regardless of the order in which the crimes are tried and sentences are  
23 imposed.

24 (e) If the factfinder determines under IC 35-50-2-11 that a person  
25 used a firearm in the commission of the offense for which the person  
26 was convicted, the term of imprisonment for the underlying offense and  
27 the additional term of imprisonment imposed under IC 35-50-2-11  
28 must be served consecutively.

29 SECTION 31. IC 35-50-2-2, AS AMENDED BY P.L.126-2012,  
30 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2013]: Sec. 2. (a) The court may suspend any part of a  
32 sentence for a felony, except as provided in this section or in section  
33 2.1 of this chapter.

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

- 39 (1) The crime committed was a Class A felony or Class B felony
- 40 and the person has a prior unrelated felony conviction.
- 41 (2) The crime committed was a Class C felony and less than seven
- 42 (7) years have elapsed between the date the person was

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1 discharged from probation, imprisonment, or parole, whichever  
 2 is later, for a prior unrelated felony conviction and the date the  
 3 person committed the Class C felony for which the person is  
 4 being sentenced.

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

14 (4) The felony committed was:

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

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

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

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

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

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

22 (G) criminal deviate conduct (IC 35-42-4-2) (**repealed**) as a  
 23 Class A felony;

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

26 (i) the felony committed was child molesting as a Class B  
 27 felony;

28 (ii) the victim was not less than twelve (12) years old at the  
 29 time the offense was committed;

30 (iii) the person is not more than four (4) years older than the  
 31 victim, or more than five (5) years older than the victim if  
 32 the relationship between the person and the victim was a  
 33 dating relationship or an ongoing personal relationship (not  
 34 including a family relationship);

35 (iv) the person did not have a position of authority or  
 36 substantial influence over the victim; and

37 (v) the person has not committed another sex offense (as  
 38 defined in IC 11-8-8-5.2) (including a delinquent act that  
 39 would be a sex offense if committed by an adult) against any  
 40 other person;

41 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or  
 42 with a deadly weapon;

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- 1 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily  
 2 injury;  
 3 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury  
 4 or with a deadly weapon;  
 5 (L) resisting law enforcement (IC 35-44.1-3-1) with a deadly  
 6 weapon;  
 7 (M) escape (IC 35-44.1-3-4) with a deadly weapon;  
 8 (N) rioting (IC 35-45-1-2) with a deadly weapon;  
 9 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the  
 10 court finds the person possessed a firearm (as defined in  
 11 IC 35-47-1-5) at the time of the offense, or the person  
 12 delivered or intended to deliver to a person under eighteen  
 13 (18) years of age at least three (3) years junior to the person  
 14 and was on a school bus or within one thousand (1,000) feet  
 15 of:  
 16 (i) school property;  
 17 (ii) a public park;  
 18 (iii) a family housing complex; or  
 19 (iv) a youth program center;  
 20 (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court  
 21 finds the person possessed a firearm (as defined in  
 22 IC 35-47-1-5) at the time of the offense, or the person  
 23 delivered or intended to deliver the methamphetamine pure or  
 24 adulterated to a person under eighteen (18) years of age at  
 25 least three (3) years junior to the person and was on a school  
 26 bus or within one thousand (1,000) feet of:  
 27 (i) school property;  
 28 (ii) a public park;  
 29 (iii) a family housing complex; or  
 30 (iv) a youth program center;  
 31 (Q) dealing in a schedule I, II, or III controlled substance  
 32 (IC 35-48-4-2) if the court finds the person possessed a firearm  
 33 (as defined in IC 35-47-1-5) at the time of the offense, or the  
 34 person delivered or intended to deliver to a person under  
 35 eighteen (18) years of age at least three (3) years junior to the  
 36 person and was on a school bus or within one thousand (1,000)  
 37 feet of:  
 38 (i) school property;  
 39 (ii) a public park;  
 40 (iii) a family housing complex; or  
 41 (iv) a youth program center;  
 42 (R) an offense under IC 9-30-5 (operating a vehicle while

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1 intoxicated) and the person who committed the offense has  
 2 accumulated at least two (2) prior unrelated convictions under  
 3 IC 9-30-5;  
 4 (S) an offense under IC 9-30-5-5(b) (operating a vehicle while  
 5 intoxicated causing death);  
 6 (T) aggravated battery (IC 35-42-2-1.5); or  
 7 (U) disarming a law enforcement officer (IC 35-44.1-3-2).

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

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

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

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

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

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

28 (i) If a person is:  
 29 (1) convicted of child molesting (IC 35-42-4-3) as a Class A  
 30 felony against a victim less than twelve (12) years of age; and  
 31 (2) at least twenty-one (21) years of age;

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

34 SECTION 32. IC 35-50-2-9, AS AMENDED BY P.L.99-2007,  
 35 SECTION 213, IS AMENDED TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) The state may seek either a  
 37 death sentence or a sentence of life imprisonment without parole for  
 38 murder by alleging, on a page separate from the rest of the charging  
 39 instrument, the existence of at least one (1) of the aggravating  
 40 circumstances listed in subsection (b). In the sentencing hearing after  
 41 a person is convicted of murder, the state must prove beyond a  
 42 reasonable doubt the existence of at least one (1) of the aggravating

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1 circumstances alleged. However, the state may not proceed against a  
 2 defendant under this section if a court determines at a pretrial hearing  
 3 under IC 35-36-9 that the defendant is an individual with mental  
 4 retardation.

5 (b) The aggravating circumstances are as follows:

6 (1) The defendant committed the murder by intentionally killing  
 7 the victim while committing or attempting to commit any of the  
 8 following:

9 (A) Arson (IC 35-43-1-1).

10 (B) Burglary (IC 35-43-2-1).

11 (C) Child molesting (IC 35-42-4-3).

12 (D) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.

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

14 (F) Rape (IC 35-42-4-1).

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

16 (H) Carjacking (IC 35-42-5-2).

17 (I) Criminal gang activity (IC 35-45-9-3).

18 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

19 (2) The defendant committed the murder by the unlawful  
 20 detonation of an explosive with intent to injure person or damage  
 21 property.

22 (3) The defendant committed the murder by lying in wait.

23 (4) The defendant who committed the murder was hired to kill.

24 (5) The defendant committed the murder by hiring another person  
 25 to kill.

26 (6) The victim of the murder was a corrections employee,  
 27 probation officer, parole officer, community corrections worker,  
 28 home detention officer, fireman, judge, or law enforcement  
 29 officer, and either:

30 (A) the victim was acting in the course of duty; or

31 (B) the murder was motivated by an act the victim performed  
 32 while acting in the course of duty.

33 (7) The defendant has been convicted of another murder.

34 (8) The defendant has committed another murder, at any time,  
 35 regardless of whether the defendant has been convicted of that  
 36 other murder.

37 (9) The defendant was:

38 (A) under the custody of the department of correction;

39 (B) under the custody of a county sheriff;

40 (C) on probation after receiving a sentence for the commission  
 41 of a felony; or

42 (D) on parole;

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- 1 at the time the murder was committed.
- 2 (10) The defendant dismembered the victim.
- 3 (11) The defendant burned, mutilated, or tortured the victim while
- 4 the victim was alive.
- 5 (12) The victim of the murder was less than twelve (12) years of
- 6 age.
- 7 (13) The victim was a victim of any of the following offenses for
- 8 which the defendant was convicted:
- 9 (A) Battery as a Class D felony or as a Class C felony under
- 10 IC 35-42-2-1.
- 11 (B) Kidnapping (IC 35-42-3-2).
- 12 (C) Criminal confinement (IC 35-42-3-3).
- 13 (D) A sex crime under IC 35-42-4.
- 14 (14) The victim of the murder was listed by the state or known by
- 15 the defendant to be a witness against the defendant and the
- 16 defendant committed the murder with the intent to prevent the
- 17 person from testifying.
- 18 (15) The defendant committed the murder by intentionally
- 19 discharging a firearm (as defined in IC 35-47-1-5):
- 20 (A) into an inhabited dwelling; or
- 21 (B) from a vehicle.
- 22 (16) The victim of the murder was pregnant and the murder
- 23 resulted in the intentional killing of a fetus that has attained
- 24 viability (as defined in IC 16-18-2-365).
- 25 (c) The mitigating circumstances that may be considered under this
- 26 section are as follows:
- 27 (1) The defendant has no significant history of prior criminal
- 28 conduct.
- 29 (2) The defendant was under the influence of extreme mental or
- 30 emotional disturbance when the murder was committed.
- 31 (3) The victim was a participant in or consented to the defendant's
- 32 conduct.
- 33 (4) The defendant was an accomplice in a murder committed by
- 34 another person, and the defendant's participation was relatively
- 35 minor.
- 36 (5) The defendant acted under the substantial domination of
- 37 another person.
- 38 (6) The defendant's capacity to appreciate the criminality of the
- 39 defendant's conduct or to conform that conduct to the
- 40 requirements of law was substantially impaired as a result of
- 41 mental disease or defect or of intoxication.
- 42 (7) The defendant was less than eighteen (18) years of age at the

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1 time the murder was committed.

2 (8) Any other circumstances appropriate for consideration.

3 (d) If the defendant was convicted of murder in a jury trial, the jury  
4 shall reconvene for the sentencing hearing. If the trial was to the court,  
5 or the judgment was entered on a guilty plea, the court alone shall  
6 conduct the sentencing hearing. The jury or the court may consider all  
7 the evidence introduced at the trial stage of the proceedings, together  
8 with new evidence presented at the sentencing hearing. The court shall  
9 instruct the jury concerning the statutory penalties for murder and any  
10 other offenses for which the defendant was convicted, the potential for  
11 consecutive or concurrent sentencing, and the availability of good time  
12 credit and clemency. The court shall instruct the jury that, in order for  
13 the jury to recommend to the court that the death penalty or life  
14 imprisonment without parole should be imposed, the jury must find at  
15 least one (1) aggravating circumstance beyond a reasonable doubt as  
16 described in subsection (l) and shall provide a special verdict form for  
17 each aggravating circumstance alleged. The defendant may present any  
18 additional evidence relevant to:

19 (1) the aggravating circumstances alleged; or

20 (2) any of the mitigating circumstances listed in subsection (c).

21 (e) For a defendant sentenced after June 30, 2002, except as  
22 provided by IC 35-36-9, if the hearing is by jury, the jury shall  
23 recommend to the court whether the death penalty or life imprisonment  
24 without parole, or neither, should be imposed. The jury may  
25 recommend:

26 (1) the death penalty; or

27 (2) life imprisonment without parole;

28 only if it makes the findings described in subsection (l). If the jury  
29 reaches a sentencing recommendation, the court shall sentence the  
30 defendant accordingly. After a court pronounces sentence, a  
31 representative of the victim's family and friends may present a  
32 statement regarding the impact of the crime on family and friends. The  
33 impact statement may be submitted in writing or given orally by the  
34 representative. The statement shall be given in the presence of the  
35 defendant.

36 (f) If a jury is unable to agree on a sentence recommendation after  
37 reasonable deliberations, the court shall discharge the jury and proceed  
38 as if the hearing had been to the court alone.

39 (g) If the hearing is to the court alone, except as provided by  
40 IC 35-36-9, the court shall:

41 (1) sentence the defendant to death; or

42 (2) impose a term of life imprisonment without parole;

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1 only if it makes the findings described in subsection (l).

2 (h) If a court sentences a defendant to death, the court shall order  
3 the defendant's execution to be carried out not later than one (1) year  
4 and one (1) day after the date the defendant was convicted. The  
5 supreme court has exclusive jurisdiction to stay the execution of a  
6 death sentence. If the supreme court stays the execution of a death  
7 sentence, the supreme court shall order a new date for the defendant's  
8 execution.

9 (i) If a person sentenced to death by a court files a petition for  
10 post-conviction relief, the court, not later than ninety (90) days after the  
11 date the petition is filed, shall set a date to hold a hearing to consider  
12 the petition. If a court does not, within the ninety (90) day period, set  
13 the date to hold the hearing to consider the petition, the court's failure  
14 to set the hearing date is not a basis for additional post-conviction  
15 relief. The attorney general shall answer the petition for post-conviction  
16 relief on behalf of the state. At the request of the attorney general, a  
17 prosecuting attorney shall assist the attorney general. The court shall  
18 enter written findings of fact and conclusions of law concerning the  
19 petition not later than ninety (90) days after the date the hearing  
20 concludes. However, if the court determines that the petition is without  
21 merit, the court may dismiss the petition within ninety (90) days  
22 without conducting a hearing under this subsection.

23 (j) A death sentence is subject to automatic review by the supreme  
24 court. The review, which shall be heard under rules adopted by the  
25 supreme court, shall be given priority over all other cases. The supreme  
26 court's review must take into consideration all claims that the:

- 27 (1) conviction or sentence was in violation of the:  
28 (A) Constitution of the State of Indiana; or  
29 (B) Constitution of the United States;  
30 (2) sentencing court was without jurisdiction to impose a  
31 sentence; and  
32 (3) sentence:  
33 (A) exceeds the maximum sentence authorized by law; or  
34 (B) is otherwise erroneous.

35 If the supreme court cannot complete its review by the date set by the  
36 sentencing court for the defendant's execution under subsection (h), the  
37 supreme court shall stay the execution of the death sentence and set a  
38 new date to carry out the defendant's execution.

39 (k) A person who has been sentenced to death and who has  
40 completed state post-conviction review proceedings may file a written  
41 petition with the supreme court seeking to present new evidence  
42 challenging the person's guilt or the appropriateness of the death

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1 sentence if the person serves notice on the attorney general. The  
 2 supreme court shall determine, with or without a hearing, whether the  
 3 person has presented previously undiscovered evidence that  
 4 undermines confidence in the conviction or the death sentence. If  
 5 necessary, the supreme court may remand the case to the trial court for  
 6 an evidentiary hearing to consider the new evidence and its effect on  
 7 the person's conviction and death sentence. The supreme court may not  
 8 make a determination in the person's favor nor make a decision to  
 9 remand the case to the trial court for an evidentiary hearing without  
 10 first providing the attorney general with an opportunity to be heard on  
 11 the matter.

12 (l) Before a sentence may be imposed under this section, the jury,  
 13 in a proceeding under subsection (e), or the court, in a proceeding  
 14 under subsection (g), must find that:

- 15 (1) the state has proved beyond a reasonable doubt that at least  
 16 one (1) of the aggravating circumstances listed in subsection (b)  
 17 exists; and  
 18 (2) any mitigating circumstances that exist are outweighed by the  
 19 aggravating circumstance or circumstances.

20 SECTION 33. IC 35-50-6-3.3, AS AMENDED BY P.L.147-2012,  
 21 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2013]: Sec. 3.3. (a) In addition to any credit time a person  
 23 earns under subsection (b) or section 3 of this chapter, a person earns  
 24 credit time if the person:

- 25 (1) is in credit Class I;  
 26 (2) has demonstrated a pattern consistent with rehabilitation; and  
 27 (3) successfully completes requirements to obtain one (1) of the  
 28 following:

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

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

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

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

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

- 42 (1) is in credit Class I;

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- 1 (2) demonstrates a pattern consistent with rehabilitation; and  
 2 (3) successfully completes requirements to obtain at least one (1)  
 3 of the following:
- 4 (A) A certificate of completion of a career and technical  
 5 education program approved by the department of correction.
  - 6 (B) A certificate of completion of a substance abuse program  
 7 approved by the department of correction.
  - 8 (C) A certificate of completion of a literacy and basic life  
 9 skills program approved by the department of correction.
  - 10 (D) A certificate of completion of a reformatory program  
 11 approved by the department of correction.
- 12 (c) The department of correction shall establish admissions criteria  
 13 and other requirements for programs available for earning credit time  
 14 under subsection (b). A person may not earn credit time under both  
 15 subsections (a) and (b) for the same program of study.
- 16 (d) The amount of credit time a person may earn under this section  
 17 is the following:
- 18 (1) Six (6) months for completion of a state of Indiana general  
 19 educational development (GED) diploma under IC 20-20-6  
 20 (before its repeal) or IC 22-4.1-18.
  - 21 (2) One (1) year for graduation from high school.
  - 22 (3) One (1) year for completion of an associate's degree.
  - 23 (4) Two (2) years for completion of a bachelor's degree.
  - 24 (5) Not more than a total of six (6) months of credit, as  
 25 determined by the department of correction, for the completion of  
 26 one (1) or more career and technical education programs  
 27 approved by the department of correction.
  - 28 (6) Not more than a total of six (6) months of credit, as  
 29 determined by the department of correction, for the completion of  
 30 one (1) or more substance abuse programs approved by the  
 31 department of correction.
  - 32 (7) Not more than a total of six (6) months credit, as determined  
 33 by the department of correction, for the completion of one (1) or  
 34 more literacy and basic life skills programs approved by the  
 35 department of correction.
  - 36 (8) Not more than a total of six (6) months credit time, as  
 37 determined by the department of correction, for completion of one  
 38 (1) or more reformatory programs approved by the department of  
 39 correction. However, a person who is serving a sentence for an  
 40 offense listed under IC 11-8-8-4.5 may not earn credit time under  
 41 this subdivision.
- 42 However, a person who does not have a substance abuse problem that

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1 qualifies the person to earn credit in a substance abuse program may  
 2 earn not more than a total of twelve (12) months of credit, as  
 3 determined by the department of correction, for the completion of one  
 4 (1) or more career and technical education programs approved by the  
 5 department of correction. If a person earns more than six (6) months of  
 6 credit for the completion of one (1) or more career and technical  
 7 education programs, the person is ineligible to earn credit for the  
 8 completion of one (1) or more substance abuse programs.

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

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

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

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

21 (1) the release date that would otherwise apply to the person after  
 22 subtracting all other credit time earned by the person, if the  
 23 person has not been convicted of an offense described in  
 24 subdivision (2); or

25 (2) the period of imprisonment imposed on the person by the  
 26 sentencing court, if the person has been convicted of one (1) of  
 27 the following crimes:

28 (A) Rape (IC 35-42-4-1).

29 (B) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.

30 (C) Child molesting (IC 35-42-4-3).

31 (D) Child exploitation (IC 35-42-4-4(b)).

32 (E) Vicarious sexual gratification (IC 35-42-4-5).

33 (F) Child solicitation (IC 35-42-4-6).

34 (G) Child seduction (IC 35-42-4-7).

35 (H) Sexual misconduct with a minor as a Class A felony, Class  
 36 B felony, or Class C felony (IC 35-42-4-9).

37 (I) Incest (IC 35-46-1-3).

38 (J) Sexual battery (IC 35-42-4-8).

39 (K) Kidnapping (IC 35-42-3-2), if the victim is less than  
 40 eighteen (18) years of age.

41 (L) Criminal confinement (IC 35-42-3-3), if the victim is less  
 42 than eighteen (18) years of age.

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- 1 (M) An attempt or a conspiracy to commit a crime listed in  
 2 clauses (A) through (L).
- 3 (i) The maximum amount of credit time a person may earn under  
 4 this section is the lesser of:  
 5 (1) four (4) years; or  
 6 (2) one-third (1/3) of the person's total applicable credit time.
- 7 (j) Credit time earned under this section by an offender serving a  
 8 sentence for a felony against a person under IC 35-42 or for a crime  
 9 listed in IC 11-8-8-5 shall be reduced to the extent that application of  
 10 the credit time would otherwise result in:  
 11 (1) postconviction release (as defined in IC 35-40-4-6); or  
 12 (2) assignment of the person to a community transition program;  
 13 in less than forty-five (45) days after the person earns the credit time.
- 14 (k) A person may earn credit time for multiple degrees at the same  
 15 education level under subsection (d) only in accordance with guidelines  
 16 approved by the department of correction. The department of  
 17 correction may approve guidelines for proper sequence of education  
 18 degrees under subsection (d).
- 19 (l) A person may not earn credit time:  
 20 (1) for a general educational development (GED) diploma if the  
 21 person has previously earned a high school diploma; or  
 22 (2) for a high school diploma if the person has previously earned  
 23 a general educational development (GED) diploma.
- 24 (m) A person may not earn credit time under this section if the  
 25 person:  
 26 (1) commits an offense listed in IC 11-8-8-4.5 while the person is  
 27 required to register as a sex or violent offender under IC 11-8-8-7;  
 28 and  
 29 (2) is committed to the department of correction after being  
 30 convicted of the offense listed in IC 11-8-8-4.5.
- 31 (n) For a person to earn credit time under subsection (a)(3)(B) for  
 32 successfully completing the requirements for a high school diploma  
 33 through correspondence courses, each correspondence course must be  
 34 approved by the department before the person begins the  
 35 correspondence course. The department may approve a correspondence  
 36 course only if the entity administering the course is recognized and  
 37 accredited by the department of education in the state where the entity  
 38 is located.

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