

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1053, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 4-13-2-14.7 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14.7. A person
5 employed, appointed, or under contract with a state agency, who works
6 with or around children, shall be dismissed (after the appropriate
7 pre-deprivation procedure has occurred) if that person is, or has ever
8 been, convicted of any of the following:
9 (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
10 years of age.
11 (2) Criminal deviate conduct (IC 35-42-4-2) (**for an act**
12 **committed before its repeal**), if the victim is less than eighteen
13 (18) years of age.
14 (3) Child molesting (IC 35-42-4-3).
15 (4) Child exploitation (IC 35-42-4-4(b)).
16 (5) Vicarious sexual gratification (IC 35-42-4-5).
17 (6) Child solicitation (IC 35-42-4-6).
18 (7) Child seduction (IC 35-42-4-7).
19 (8) Sexual misconduct with a minor as a Class A or **Class B**
20 felony (IC 35-42-4-9).
21 (9) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)

1 years of age.

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

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

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

- 1 (A) Employment with a state or local governmental entity.
- 2 (B) Licensing.
- 3 (3) Segments of the securities industry identified under 15 U.S.C.
- 4 78q(f)(2).
- 5 (c) Any person who knowingly or intentionally uses limited criminal
- 6 history for any purpose not specified under this section commits a
- 7 Class A misdemeanor."
- 8 Page 2, line 18, after "(IC 35-42-4-2)" delete "." and insert
- 9 **"(repealed)."**
- 10 Page 4, line 2, after "(IC 35-42-4-2)" delete "." and insert
- 11 **"(repealed)."**
- 12 Page 19, between lines 21 and 22, begin a new paragraph and insert:
- 13 "SECTION 14. IC 12-24-3-2 IS AMENDED TO READ AS
- 14 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. To provide greater
- 15 security for patients, visitors, and employees, the division may not
- 16 employ in a state institution an individual who has been convicted of
- 17 any of the following offenses:
- 18 (1) Rape (IC 35-42-4-1).
- 19 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 20 (3) Child molesting (IC 35-42-4-3).
- 21 (4) Child exploitation (IC 35-42-4-4).
- 22 (5) Sexual misconduct with a minor as a Class A or **Class B**
- 23 felony (IC 35-42-4-9).
- 24 SECTION 15. IC 16-21-8-1, AS AMENDED BY P.L.41-2007,
- 25 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2013]: Sec. 1. (a) A hospital licensed under IC 16-21-2 that
- 27 provides general medical and surgical hospital services shall provide
- 28 forensic medical exams and additional forensic services to all alleged
- 29 sex crime victims who apply for forensic medical exams and additional
- 30 forensic services in relation to injuries or trauma resulting from the
- 31 alleged sex crime. The provision of services may not be dependent on
- 32 a victim's reporting to, or cooperating with, law enforcement.
- 33 (b) For the purposes of this chapter, the following crimes are
- 34 considered sex crimes:
- 35 (1) Rape (IC 35-42-4-1).
- 36 (2) Criminal deviate conduct (IC 35-42-4-2) **(repealed)**.
- 37 (3) Child molesting (IC 35-42-4-3).
- 38 (4) Vicarious sexual gratification (IC 35-42-4-5).
- 39 (5) Sexual battery (IC 35-42-4-8).
- 40 (6) Sexual misconduct with a minor (IC 35-42-4-9).
- 41 (7) Child solicitation (IC 35-42-4-6).
- 42 (8) Child seduction (IC 35-42-4-7).

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

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

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

8 (1) been convicted of rape (IC 35-42-4-1);

9 (2) been convicted of criminal deviate conduct (IC 35-42-4-2)
10 **(repealed);**

11 (3) been convicted of exploitation of a dependent or an
12 endangered adult (IC 35-46-1-12);

13 (4) had a judgment entered against the person for failure to report
14 battery, neglect, or exploitation of an endangered adult
15 (IC 35-46-1-13); or

16 (5) been convicted of theft (IC 35-43-4), if the person's conviction
17 for theft occurred less than ten (10) years before the date of
18 submission by the person of an application for licensure or
19 approval as a hospice program under IC 16-25-3.

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

22 SECTION 17. IC 16-25-6-3 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) Except as
24 provided in subsection (b), a person who owns or operates a hospice
25 program may not employ an individual or allow a volunteer to provide
26 hospice services if that individual's or volunteer's limited criminal
27 history indicates that the individual or volunteer has:

28 (1) been convicted of rape (IC 35-42-4-1);

29 (2) been convicted of criminal deviate conduct (IC 35-42-4-2)
30 **(repealed);**

31 (3) been convicted of exploitation of an endangered adult
32 (IC 35-46-1-12);

33 (4) had a judgment entered against the individual for failure to
34 report battery, neglect, or exploitation of an endangered adult
35 (IC 35-46-1-13); or

36 (5) been convicted of theft (IC 35-43-4), if the conviction for theft
37 occurred less than ten (10) years before the individual's
38 employment application date.

39 (b) A hospice program may not employ an individual or allow a
40 volunteer to provide hospice services for more than twenty-one (21)
41 calendar days without receipt of that individual's or volunteer's limited
42 criminal history required by section 2 of this chapter, unless the Indiana

1 central repository for criminal history information under IC 10-13-3 is
 2 solely responsible for failing to provide the individual's or volunteer's
 3 limited criminal history to the hospice program within the time
 4 required under this subsection.

5 SECTION 18. IC 16-27-2-3, AS AMENDED BY P.L.212-2005,
 6 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2013]: Sec. 3. (a) A person may not operate a home health
 8 agency or a personal services agency if the person has been convicted
 9 of any of the following:

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

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

12 (3) Exploitation of an endangered adult (IC 35-46-1-12).

13 (4) Failure to report battery, neglect, or exploitation of an
 14 endangered adult (IC 35-46-1-13).

15 (5) Theft (IC 35-43-4), if the person's conviction for theft
 16 occurred less than ten (10) years before the date of submission by
 17 the person of an application for licensure as a home health agency
 18 under IC 16-27-1 or as a personal services agency under
 19 IC 16-27-4.

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

22 SECTION 19. IC 16-27-2-5, AS AMENDED BY P.L.84-2010,
 23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2013]: Sec. 5. (a) Except as provided in subsection (b), a
 25 person who operates a home health agency under IC 16-27-1 or a
 26 personal services agency under IC 16-27-4 may not employ a person to
 27 provide services in a patient's or client's temporary or permanent
 28 residence if that person's limited criminal history, national criminal
 29 history background check, or expanded criminal history check indicates
 30 that the person has been convicted of any of the following:

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

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

33 (3) Exploitation of an endangered adult (IC 35-46-1-12).

34 (4) Failure to report battery, neglect, or exploitation of an
 35 endangered adult (IC 35-46-1-13).

36 (5) Theft (IC 35-43-4), if the conviction for theft occurred less
 37 than ten (10) years before the person's employment application
 38 date.

39 (6) A felony that is substantially equivalent to a felony listed in:

40 (A) subdivisions (1) through (4); or

41 (B) subdivision (5), if the conviction for theft occurred less
 42 than ten (10) years before the person's employment application

1 date;

2 for which the conviction was entered in another state.

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

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

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

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

38 (c) The department, after holding a hearing on the matter, shall
 39 permanently revoke the license of a person who is known by the
 40 department to have been convicted of any of the following felonies:

- 41 (1) Kidnapping (IC 35-42-3-2).
 42 (2) Criminal confinement (IC 35-42-3-3).

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

1 another state that is comparable to a felony listed in subsection (c).

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

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

7 SECTION 21. IC 22-5-5-1 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. The employment
9 contract of a person who:

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

23 may be canceled by the person's employer.

24 SECTION 22. IC 29-3-7-7, AS ADDED BY P.L.131-2009,
25 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2013]: Sec. 7. A court may not appoint a person to serve as
27 the guardian or permit a person to continue to serve as a guardian if the
28 person:

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

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

12 SECTION 23. IC 31-19-9-10 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A court shall
 14 determine that consent to adoption is not required from a parent if:

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

37 SECTION 24. IC 31-30-1-2.5, AS AMENDED BY P.L.131-2009,
 38 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2013]: Sec. 2.5. A juvenile court may not appoint a person to
 40 serve as the guardian or custodian of a child or permit a person to
 41 continue to serve as a guardian or custodian of a child if the person:

- 42 (1) is a sexually violent predator (as described in IC 35-38-1-7.5);

1 (2) was at least eighteen (18) years of age at the time of the
 2 offense and committed child molesting (IC 35-42-4-3) or sexual
 3 misconduct with a minor (IC 35-42-4-9) against a child less than
 4 sixteen (16) years of age:

5 (A) by using or threatening the use of deadly force;

6 (B) while armed with a deadly weapon; or

7 (C) that resulted in serious bodily injury; or

8 (3) was less than eighteen (18) years of age at the time of the
 9 offense but was tried and convicted as an adult of:

10 (A) an offense described in:

11 (i) IC 35-42-4-1;

12 (ii) IC 35-42-4-2 (**before its repeal**);

13 (iii) IC 35-42-4-3 as a Class A or Class B felony;

14 (iv) IC 35-42-4-5(a)(1);

15 (v) IC 35-42-4-5(a)(2);

16 (vi) IC 35-42-4-5(a)(3);

17 (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

18 (viii) IC 35-42-4-5(b)(2); or

19 (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

20 (B) an attempt or conspiracy to commit a crime listed in clause

21 (A); or

22 (C) a crime under the laws of another jurisdiction, including a
 23 military court, that is substantially equivalent to any of the
 24 offenses listed in clauses (A) and (B).

25 SECTION 25. IC 31-30-1-4, AS AMENDED BY P.L.67-2008,
 26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2013]: Sec. 4. (a) The juvenile court does not have jurisdiction
 28 over an individual for an alleged violation of:

29 (1) IC 35-41-5-1(a) (attempted murder);

30 (2) IC 35-42-1-1 (murder);

31 (3) IC 35-42-3-2 (kidnapping);

32 (4) IC 35-42-4-1 (rape);

33 (5) IC 35-42-4-2 (criminal deviate conduct) (**repealed**);

34 (6) IC 35-42-5-1 (robbery) if:

35 (A) the robbery was committed while armed with a deadly
 36 weapon; or

37 (B) the robbery results in bodily injury or serious bodily
 38 injury;

39 (7) IC 35-42-5-2 (carjacking);

40 (8) IC 35-45-9-3 (criminal gang activity);

41 (9) IC 35-45-9-4 (criminal gang intimidation);

42 (10) IC 35-47-2-1 (carrying a handgun without a license), if

1 charged as a felony;
 2 (11) IC 35-47-10 (children and firearms), if charged as a felony;
 3 (12) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
 4 (13) any offense that may be joined under IC 35-34-1-9(a)(2) with
 5 any crime listed in subdivisions (1) through (12);
 6 if the individual was at least sixteen (16) years of age at the time of the
 7 alleged violation.

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

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

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

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

26 SECTION 26. IC 31-34-1-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A child is a child
 28 in need of services if, before the child becomes eighteen (18) years of
 29 age:

30 (1) the child is the victim of a sex offense under:
 31 (A) IC 35-42-4-1;
 32 (B) IC 35-42-4-2 (**repealed**);
 33 (C) IC 35-42-4-3;
 34 (D) IC 35-42-4-4;
 35 (E) IC 35-42-4-7;
 36 (F) IC 35-42-4-9;
 37 (G) IC 35-45-4-1;
 38 (H) IC 35-45-4-2;
 39 (I) IC 35-46-1-3; or
 40 (J) the law of another jurisdiction, including a military court,
 41 that is substantially equivalent to any of the offenses listed in
 42 clauses (A) through (I); and

- 1 (2) the child needs care, treatment, or rehabilitation that:
 2 (A) the child is not receiving; and
 3 (B) is unlikely to be provided or accepted without the coercive
 4 intervention of the court.
- 5 (b) A child is a child in need of services if, before the child becomes
 6 eighteen (18) years of age:
- 7 (1) the child lives in the same household as another child who is
 8 the victim of a sex offense under:
- 9 (A) IC 35-42-4-1;
 10 (B) IC 35-42-4-2 (**repealed**);
 11 (C) IC 35-42-4-3;
 12 (D) IC 35-42-4-4;
 13 (E) IC 35-42-4-7;
 14 (F) IC 35-42-4-9;
 15 (G) IC 35-45-4-1;
 16 (H) IC 35-45-4-2;
 17 (I) IC 35-46-1-3; or
 18 (J) the law of another jurisdiction, including a military court,
 19 that is substantially equivalent to any of the offenses listed in
 20 clauses (A) through (I);
- 21 (2) the child lives in the same household as the adult who
 22 committed the sex offense under subdivision (1) and the sex
 23 offense resulted in a conviction or a judgment under
 24 IC 31-34-11-2;
- 25 (3) the child needs care, treatment, or rehabilitation that:
 26 (A) the child is not receiving; and
 27 (B) is unlikely to be provided or accepted without the coercive
 28 intervention of the court; and
- 29 (4) a caseworker assigned to provide services to the child:
 30 (A) places the child in a program of informal adjustment or
 31 other family or rehabilitative services based upon the existence
 32 of the circumstances described in subdivisions (1) and (2) and
 33 the assigned caseworker subsequently determines further
 34 intervention is necessary; or
 35 (B) determines that a program of informal adjustment or other
 36 family or rehabilitative services is inappropriate.
- 37 SECTION 27. IC 31-35-3-4, AS AMENDED BY P.L.146-2008,
 38 SECTION 618, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2013]: Sec. 4. If:
- 40 (1) an individual is convicted of the offense of:
 41 (A) murder (IC 35-42-1-1);
 42 (B) causing suicide (IC 35-42-1-2);

- 1 (C) voluntary manslaughter (IC 35-42-1-3);
 2 (D) involuntary manslaughter (IC 35-42-1-4);
 3 (E) rape (IC 35-42-4-1);
 4 (F) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;
 5 (G) child molesting (IC 35-42-4-3);
 6 (H) child exploitation (IC 35-42-4-4);
 7 (I) sexual misconduct with a minor (IC 35-42-4-9); or
 8 (J) incest (IC 35-46-1-3); and
 9 (2) the victim of the offense:
 10 (A) was less than sixteen (16) years of age at the time of the
 11 offense; and
 12 (B) is:
 13 (i) the individual's biological or adoptive child; or
 14 (ii) the child of a spouse of the individual who has
 15 committed the offense;
 16 the attorney for the department, the child's guardian ad litem, or the
 17 court appointed special advocate may file a petition with the juvenile
 18 or probate court to terminate the parent-child relationship of the
 19 individual who has committed the offense with the victim of the
 20 offense, the victim's siblings, or any biological or adoptive child of that
 21 individual.
 22 SECTION 28. IC 31-37-19-9, AS AMENDED BY P.L.173-2006,
 23 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2013]: Sec. 9. (a) This section applies if a child is a delinquent
 25 child under IC 31-37-1.
 26 (b) After a juvenile court makes a determination under IC 11-8-8-5,
 27 the juvenile court may, in addition to an order under section 6 of this
 28 chapter, and if the child:
 29 (1) is at least thirteen (13) years of age and less than sixteen (16)
 30 years of age; and
 31 (2) committed an act that, if committed by an adult, would be:
 32 (A) murder (IC 35-42-1-1);
 33 (B) kidnapping (IC 35-42-3-2);
 34 (C) rape (IC 35-42-4-1);
 35 (D) criminal deviate conduct (IC 35-42-4-2) **(repealed)**; or
 36 (E) robbery (IC 35-42-5-1) if the robbery was committed while
 37 armed with a deadly weapon or if the robbery resulted in
 38 bodily injury or serious bodily injury;
 39 order wardship of the child to the department of correction for a fixed
 40 period that is not longer than the date the child becomes eighteen (18)
 41 years of age, subject to IC 11-10-2-10.
 42 (c) Notwithstanding IC 11-10-2-5, the department of correction may

1 not reduce the period ordered under this section (or
2 IC 31-6-4-15.9(b)(8) before its repeal).

3 SECTION 29. IC 33-37-5-12 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. The court shall
5 order a person to pay a child abuse prevention fee of one hundred
6 dollars (\$100) to the clerk in each criminal action in which:

7 (1) the person is found to have committed the offense of:

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

9 (B) causing suicide (IC 35-42-1-2);

10 (C) voluntary manslaughter (IC 35-42-1-3);

11 (D) reckless homicide (IC 35-42-1-5);

12 (E) battery (IC 35-42-2-1);

13 (F) rape (IC 35-42-4-1);

14 (G) criminal deviate conduct (IC 35-42-4-2) **(repealed)**;

15 (H) child molesting (IC 35-42-4-3);

16 (I) child exploitation (IC 35-42-4-4);

17 (J) vicarious sexual gratification (IC 35-42-4-5);

18 (K) child solicitation (IC 35-42-4-6);

19 (L) incest (IC 35-46-1-3);

20 (M) neglect of a dependent (IC 35-46-1-4);

21 (N) child selling (IC 35-46-1-4); or

22 (O) child seduction (IC 35-42-4-7); and

23 (2) the victim of the offense is less than eighteen (18) years of
24 age.

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

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

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

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

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

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

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

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

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

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

40 (9) Sexual misconduct with a minor as a Class A or Class B
41 felony (IC 35-42-4-9).

42 (10) Incest (IC 35-46-1-3).

1 SECTION 31. IC 33-39-1-9 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. A prosecuting
 3 attorney who charges a person with committing any of the following
 4 shall inform the person's employer of the charge, unless the prosecuting
 5 attorney determines that the person charged does not work with
 6 children:

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

18 SECTION 32. IC 35-31.5-2-216, AS ADDED BY P.L.114-2012,
 19 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2013]: Sec. 216. "Offense relating to a criminal sexual act"
 21 means the following:

- 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 seduction (IC 35-42-4-7).
- 26 (5) Prostitution (IC 35-45-4-2).
- 27 (6) Patronizing a prostitute (IC 35-45-4-3).
- 28 (7) Incest (IC 35-46-1-3).
- 29 (8) Sexual misconduct with a minor under IC 35-42-4-9(a)."

30 Page 19, line 36, after "IC 35-42-4-2" delete ";" and insert "**(before**
 31 **its repeal)**";".

32 Page 22, line 7, after "(IC 35-42-4-2)" delete "." and insert
 33 "**(repealed)**".

34 Page 22, between lines 23 and 24, begin a new paragraph and insert:
 35 "SECTION 34. 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)**.

- 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

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 35. 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 36. 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**

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 37. 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 Page 29, between lines 5 and 6, begin a new paragraph and insert:

36 "SECTION 39. IC 35-47-4-5, AS AMENDED BY P.L.126-2012,
 37 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2013]: Sec. 5. (a) As used in this section, "serious violent
 39 felon" means a person who has been convicted of:

- 40 (1) committing a serious violent felony in:
 41 (A) Indiana; or
 42 (B) any other jurisdiction in which the elements of the crime

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

- 1 (22) incest (IC 35-46-1-3);
 2 (23) dealing in or manufacturing cocaine or a narcotic drug
 3 (IC 35-48-4-1);
 4 (24) dealing in methamphetamine (IC 35-48-4-1.1);
 5 (25) dealing in a schedule I, II, or III controlled substance
 6 (IC 35-48-4-2);
 7 (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
 8 or
 9 (27) dealing in a schedule V controlled substance (IC 35-48-4-4).

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

13 Page 29, between lines 24 and 25, begin a new paragraph and insert:

14 "SECTION 41. IC 35-50-1-2, AS AMENDED BY P.L.125-2012,
 15 SECTION 416, AND AS AMENDED BY P.L.126-2012, SECTION
 16 59, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) As used in this section,
 18 "crime of violence" means the following:

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

41 (b) As used in this section, "episode of criminal conduct" means
 42 offenses or a connected series of offenses that are closely related in

1 time, place, and circumstance.

2 (c) Except as provided in subsection (d) or (e), the court shall
3 determine whether terms of imprisonment shall be served concurrently
4 or consecutively. The court may consider the:

5 (1) aggravating circumstances in IC 35-38-1-7.1(a); and

6 (2) mitigating circumstances in IC 35-38-1-7.1(b);

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

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

18 (1) before the date the person is discharged from probation,
19 parole, or a term of imprisonment imposed for the first crime; or

20 (2) while the person is released:

21 (A) upon the person's own recognizance; or

22 (B) on bond;

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

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

31 SECTION 42. IC 35-50-2-2, AS AMENDED BY P.L.126-2012,
32 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2013]: Sec. 2. (a) The court may suspend any part of a
34 sentence for a felony, except as provided in this section or in section
35 2.1 of this chapter.

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

41 (1) The crime committed was a Class A felony or Class B felony
42 and the person has a prior unrelated felony conviction.

- 1 (2) The crime committed was a Class C felony and less than seven
2 (7) years have elapsed between the date the person was
3 discharged from probation, imprisonment, or parole, whichever
4 is later, for a prior unrelated felony conviction and the date the
5 person committed the Class C felony for which the person is
6 being sentenced.
- 7 (3) The crime committed was a Class D felony and less than three
8 (3) years have elapsed between the date the person was
9 discharged from probation, imprisonment, or parole, whichever
10 is later, for a prior unrelated felony conviction and the date the
11 person committed the Class D felony for which the person is
12 being sentenced. However, the court may suspend the minimum
13 sentence for the crime only if the court orders home detention
14 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
15 sentence specified for the crime under this chapter.
- 16 (4) The felony committed was:
- 17 (A) murder (IC 35-42-1-1);
 - 18 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
19 causing death;
 - 20 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
 - 21 (D) kidnapping (IC 35-42-3-2);
 - 22 (E) confinement (IC 35-42-3-3) with a deadly weapon;
 - 23 (F) rape (IC 35-42-4-1) as a Class A felony;
 - 24 (G) criminal deviate conduct (IC 35-42-4-2) (**repealed**) as a
25 Class A felony;
 - 26 (H) except as provided in subsection (i), child molesting
27 (IC 35-42-4-3) as a Class A or Class B felony, unless:
 - 28 (i) the felony committed was child molesting as a Class B
29 felony;
 - 30 (ii) the victim was not less than twelve (12) years old at the
31 time the offense was committed;
 - 32 (iii) the person is not more than four (4) years older than the
33 victim, or more than five (5) years older than the victim if
34 the relationship between the person and the victim was a
35 dating relationship or an ongoing personal relationship (not
36 including a family relationship);
 - 37 (iv) the person did not have a position of authority or
38 substantial influence over the victim; and
 - 39 (v) the person has not committed another sex offense (as
40 defined in IC 11-8-8-5.2) (including a delinquent act that
41 would be a sex offense if committed by an adult) against any
42 other person;

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

- 1 (iv) a youth program center;
- 2 (R) an offense under IC 9-30-5 (operating a vehicle while
- 3 intoxicated) and the person who committed the offense has
- 4 accumulated at least two (2) prior unrelated convictions under
- 5 IC 9-30-5;
- 6 (S) an offense under IC 9-30-5-5(b) (operating a vehicle while
- 7 intoxicated causing death);
- 8 (T) aggravated battery (IC 35-42-2-1.5); or
- 9 (U) disarming a law enforcement officer (IC 35-44.1-3-2).
- 10 (c) Except as provided in subsection (e), whenever the court
- 11 suspends a sentence for a felony, it shall place the person on probation
- 12 under IC 35-38-2 for a fixed period to end not later than the date that
- 13 the maximum sentence that may be imposed for the felony will expire.
- 14 (d) The minimum sentence for a person convicted of voluntary
- 15 manslaughter may not be suspended unless the court finds at the
- 16 sentencing hearing that the crime was not committed by means of a
- 17 deadly weapon.
- 18 (e) Whenever the court suspends that part of the sentence of a sex
- 19 or violent offender (as defined in IC 11-8-8-5) that is suspendible under
- 20 subsection (b), the court shall place the sex or violent offender on
- 21 probation under IC 35-38-2 for not more than ten (10) years.
- 22 (f) An additional term of imprisonment imposed under
- 23 IC 35-50-2-11 may not be suspended.
- 24 (g) A term of imprisonment imposed under IC 35-47-10-6 or
- 25 IC 35-47-10-7 may not be suspended if the commission of the offense
- 26 was knowing or intentional.
- 27 (h) A term of imprisonment imposed for an offense under
- 28 IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be
- 29 suspended.
- 30 (i) If a person is:
- 31 (1) convicted of child molesting (IC 35-42-4-3) as a Class A
- 32 felony against a victim less than twelve (12) years of age; and
- 33 (2) at least twenty-one (21) years of age;
- 34 the court may suspend only that part of the sentence that is in excess of
- 35 thirty (30) years.
- 36 SECTION 43. IC 35-50-2-9, AS AMENDED BY P.L.99-2007,
- 37 SECTION 213, IS AMENDED TO READ AS FOLLOWS
- 38 [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) The state may seek either a
- 39 death sentence or a sentence of life imprisonment without parole for
- 40 murder by alleging, on a page separate from the rest of the charging
- 41 instrument, the existence of at least one (1) of the aggravating
- 42 circumstances listed in subsection (b). In the sentencing hearing after

1 a person is convicted of murder, the state must prove beyond a
2 reasonable doubt the existence of at least one (1) of the aggravating
3 circumstances alleged. However, the state may not proceed against a
4 defendant under this section if a court determines at a pretrial hearing
5 under IC 35-36-9 that the defendant is an individual with mental
6 retardation.

7 (b) The aggravating circumstances are as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (5) The defendant committed the murder by hiring another person
27 to kill.

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

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

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

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

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

39 (9) The defendant was:

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

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

42 (C) on probation after receiving a sentence for the commission

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

1 mental disease or defect or of intoxication.

2 (7) The defendant was less than eighteen (18) years of age at the
3 time the murder was committed.

4 (8) Any other circumstances appropriate for consideration.

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

21 (1) the aggravating circumstances alleged; or

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

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

28 (1) the death penalty; or

29 (2) life imprisonment without parole;

30 only if it makes the findings described in subsection (1). If the jury
31 reaches a sentencing recommendation, the court shall sentence the
32 defendant accordingly. After a court pronounces sentence, a
33 representative of the victim's family and friends may present a
34 statement regarding the impact of the crime on family and friends. The
35 impact statement may be submitted in writing or given orally by the
36 representative. The statement shall be given in the presence of the
37 defendant.

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

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

- 1 (1) sentence the defendant to death; or
 2 (2) impose a term of life imprisonment without parole;
 3 only if it makes the findings described in subsection (l).

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

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

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

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

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

41 (k) A person who has been sentenced to death and who has
 42 completed state post-conviction review proceedings may file a written

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

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

17 (1) the state has proved beyond a reasonable doubt that at least
 18 one (1) of the aggravating circumstances listed in subsection (b)
 19 exists; and

20 (2) any mitigating circumstances that exist are outweighed by the
 21 aggravating circumstance or circumstances."

22 Page 31, line 34, after "(IC 35-42-4-2)" delete "." and insert
 23 **"(repealed)."**

24 Renumber all SECTIONS consecutively.

(Reference is to HB 1053 as reprinted February 19, 2013.)

and when so amended that said bill do pass .

Committee Vote: Yeas 9, Nays 0.

Senator Young R Michael, Chairperson