

# COMMITTEE REPORT

---

## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 2, 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 Delete everything after the enacting clause and insert the  
2 following:  
3 SECTION 1. IC 10-13-6-8, AS AMENDED BY P.L.142-2005,  
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2013]: Sec. 8. (a) The superintendent may establish a data  
6 base of DNA identification records of:  
7 (1) convicted criminals;  
8 **(2) persons arrested for a felony;**  
9 ~~(2)~~ **(3)** crime scene specimens;  
10 ~~(3)~~ **(4)** unidentified missing persons; and  
11 ~~(4)~~ **(5)** close biological relatives of missing persons.  
12 (b) The superintendent shall maintain the Indiana DNA data base.  
13 (c) The superintendent may contract for services to perform DNA  
14 analysis of:  
15 **(1) convicted offenders; and**  
16 **(2) persons arrested for a felony;**  
17 under section 10 of this chapter to assist federal, state, and local  
18 criminal justice and law enforcement agencies in the putative  
19 identification, detection, or exclusion of individuals who are subjects  
20 of an investigation or prosecution of a sex offense, a violent crime, or  
21 another crime in which biological evidence is recovered from the crime  
22 scene.  
23 (d) The superintendent:  
24 (1) may perform or contract for performance of testing, typing,  
25 or analysis of a DNA sample collected from a person described  
26 in section 10 of this chapter at any time; and

1 (2) shall perform or contract for the performance of testing,  
 2 typing, or analysis of a DNA sample collected from a person  
 3 described in section 10 of this chapter if federal funds become  
 4 available for the performance of DNA testing, typing, or  
 5 analysis.

6 (e) The superintendent shall adopt rules under IC 4-22-2 necessary  
 7 to administer and enforce the provisions and intent of this chapter.

8 (f) The detention, arrest, or conviction of a person based on a data  
 9 base match or data base information is not invalidated if a court  
 10 determines that the DNA sample was obtained or placed in the Indiana  
 11 DNA data base by mistake.

12 SECTION 2. IC 10-13-6-10, AS AMENDED BY P.L.173-2006,  
 13 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2013]: Sec. 10. (a) This section applies to the following:

15 **(1) A person arrested after June 30, 2013, for a felony.**

16 ~~(1)~~ **(2)** A person convicted of a felony under IC 35-42 (offenses  
 17 against the person) or IC 35-43-2-1 (burglary):

18 (A) after June 30, 1996, whether or not the person is  
 19 sentenced to a term of imprisonment; or

20 (B) before July 1, 1996, if the person is held in jail or prison  
 21 on or after July 1, 1996.

22 ~~(2)~~ **(3)** A person convicted of a criminal law in effect before  
 23 October 1, 1977, that penalized an act substantially similar to a  
 24 felony described in IC 35-42 or IC 35-43-2-1 or that would have  
 25 been an included offense of a felony described in IC 35-42 or  
 26 IC 35-43-2-1 if the felony had been in effect:

27 (A) after June 30, 1998, whether or not the person is  
 28 sentenced to a term of imprisonment; or

29 (B) before July 1, 1998, if the person is held in jail or prison  
 30 on or after July 1, 1998.

31 ~~(3)~~ **(4)** A person convicted of a felony, conspiracy to commit a  
 32 felony, or attempt to commit a felony:

33 (A) after June 30, 2005, whether or not the person is  
 34 sentenced to a term of imprisonment; or

35 (B) before July 1, 2005, if the person is held in jail or prison  
 36 on or after July 1, 2005.

37 (b) A person described in subsection (a) shall provide a DNA  
 38 sample to the:

39 (1) department of correction or the designee of the department  
 40 of correction if the offender is committed to the department of  
 41 correction;

42 (2) county sheriff or the designee of the county sheriff if the  
 43 offender is held in a county jail or other county penal facility,  
 44 placed in a community corrections program (as defined in  
 45 IC 35-38-2.6-2), ~~or~~ placed on probation, or **released on bond**;

46 (3) agency that supervises the person, or the agency's designee,  
 47 if the person is on conditional release in accordance with  
 48 IC 35-38-1-27; **or**

49 **(4) law enforcement agency that processes the person, in the**  
 50 **case of a person arrested for a felony.**

1 A person is not required to submit a blood sample if doing so would  
2 present a substantial and an unreasonable risk to the person's health.

3 (c) The detention, arrest, or conviction of a person based on a data  
4 base match or data base information is not invalidated if a court  
5 determines that the DNA sample was obtained or placed in the Indiana  
6 DNA data base by mistake.

7 SECTION 3. IC 10-13-6-18 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18. (a) A person whose  
9 DNA profile has been included in the Indiana DNA data base may  
10 request expungement of the profile from the DNA data base on the  
11 grounds that:

12 (1) the conviction on which the authority for inclusion in the  
13 Indiana DNA data base was founded has been reversed and the  
14 case has been dismissed; **or**

15 (2) **the person was arrested for a felony, and:**

16 (A) **the person was acquitted of all charges and is not**  
17 **otherwise required to submit a DNA sample;**

18 (B) **the person was convicted but the conviction has been**  
19 **reversed and the case dismissed; or**

20 (C) **the case has been dismissed.**

21 (b) All identifiable information in the Indiana DNA data base  
22 pertaining to a person requesting expungement under subsection (a)  
23 shall be expunged, and all samples from the person shall be destroyed,  
24 upon receipt of:

25 (1) a written request for expungement under subsection (a);

26 (2) a certified copy of the court order:

27 (A) **reversing the person's conviction and dismissing the**  
28 **conviction, case, as described in subsection (a)(1) and**  
29 **(a)(2)(B);**

30 (B) **establishing that the person has been acquitted of all**  
31 **charges, as described in subsection (a)(2)(A); or**

32 (C) **showing that the case against the person has been**  
33 **dismissed, as described in subsection (a)(2)(C); and**

34 (3) any other information necessary to ascertain the validity of  
35 the request.

36 (c) Upon expungement of a person's DNA profile from the Indiana  
37 DNA data base, the superintendent shall request expungement of the  
38 person's DNA profile from the national DNA data base.

39 SECTION 4. IC 33-37-5-26.2, AS AMENDED BY P.L.174-2006,  
40 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2013]: Sec. 26.2. In each action in which a person is:

42 (1) convicted of an offense;

43 (2) required to pay a pretrial diversion fee;

44 (3) found to have committed an infraction; or

45 (4) found to have violated an ordinance;

46 the clerk shall collect a DNA sample processing fee of ~~two~~ **four** dollars  
47 ~~(\$2).~~ **(\$4).**

48 SECTION 5. IC 35-38-1-27, AS ADDED BY P.L.173-2006,  
49 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
50 JULY 1, 2013]: Sec. 27. (a) If a court imposes a sentence that does not

1 involve a commitment to the department of correction, the court shall  
2 require a person:

3 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~  
4 **IC 10-13-6-10(a)**; and

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

7 to provide a DNA sample as a condition of the sentence.

8 (b) If a person described in subsection (a) is confined at the time  
9 of sentencing, the court shall order the person to provide a DNA  
10 sample immediately after sentencing.

11 (c) If a person described in subsection (a) is not confined at the  
12 time of sentencing, the agency supervising the person after sentencing  
13 shall establish the date, time, and location for the person to provide a  
14 DNA sample. However, the supervising agency must require that the  
15 DNA sample be provided not more than seven (7) days after  
16 sentencing. A supervising agency's failure to obtain a DNA sample not  
17 more than seven (7) days after sentencing does not permit a person  
18 required to provide a DNA sample to challenge the requirement that  
19 the person provide a DNA sample at a later date.

20 (d) A person's failure to provide a DNA sample is grounds for  
21 revocation of the person's probation, community corrections placement,  
22 or other conditional release.

23 SECTION 6. IC 35-38-2-2.3, AS AMENDED BY P.L.40-2012,  
24 SECTION 20, AND AS AMENDED BY P.L.147-2012, SECTION 9,  
25 IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
26 [EFFECTIVE JULY 1, 2013]: Sec. 2.3. (a) As a condition of probation,  
27 the court may require a person to do a combination of the following:

28 (1) Work faithfully at suitable employment or faithfully pursue  
29 a course of study or career and technical education that will  
30 equip the person for suitable employment.

31 (2) Undergo available medical or psychiatric treatment and  
32 remain in a specified institution if required for that purpose.

33 (3) Attend or reside in a facility established for the instruction,  
34 recreation, or residence of persons on probation.

35 (4) *Participate in a treatment program, educational class, or*  
36 *rehabilitative service provided by a probation department or by*  
37 *referral to an agency.*

38 ~~(5)~~ (5) Support the person's dependents and meet other family  
39 responsibilities.

40 ~~(5)~~ (6) Make restitution or reparation to the victim of the crime  
41 for damage or injury that was sustained by the victim. When  
42 restitution or reparation is a condition of probation, the court  
43 shall fix the amount, which may not exceed an amount the  
44 person can or will be able to pay, and shall fix the manner of  
45 performance.

46 ~~(6)~~ (7) Execute a repayment agreement with the appropriate  
47 governmental entity to repay the full amount of public relief or  
48 assistance wrongfully received, and make repayments according  
49 to a repayment schedule set out in the agreement.

50 ~~(7)~~ (8) Pay a fine authorized by IC 35-50.

- 1 ~~(8)~~ (9) Refrain from possessing a firearm or other deadly weapon  
 2 unless granted written permission by the court or the person's  
 3 probation officer.
- 4 ~~(9)~~ (10) Report to a probation officer at reasonable times as  
 5 directed by the court or the probation officer.
- 6 ~~(10)~~ (11) Permit the person's probation officer to visit the person  
 7 at reasonable times at the person's home or elsewhere.
- 8 ~~(11)~~ (12) Remain within the jurisdiction of the court, unless  
 9 granted permission to leave by the court or by the person's  
 10 probation officer.
- 11 ~~(12)~~ (13) Answer all reasonable inquiries by the court or the  
 12 person's probation officer and promptly notify the court or  
 13 probation officer of any change in address or employment.
- 14 ~~(13)~~ (14) Perform uncompensated work that benefits the  
 15 community.
- 16 ~~(14)~~ (15) Satisfy other conditions reasonably related to the  
 17 person's rehabilitation.
- 18 ~~(15)~~ (16) Undergo home detention under IC 35-38-2.5.
- 19 ~~(16)~~ (17) Undergo a laboratory test or series of tests approved by  
 20 the state department of health to detect and confirm the presence  
 21 of the human immunodeficiency virus (HIV) antigen or  
 22 antibodies to the human immunodeficiency virus (HIV), if:
- 23 (A) the person had been convicted of an offense relating to  
 24 a criminal sexual act and the offense created an  
 25 epidemiologically demonstrated risk of transmission of the  
 26 human immunodeficiency virus (HIV); or
- 27 (B) the person had been convicted of an offense relating to  
 28 a controlled substance and the offense involved:
- 29 (i) the delivery by any person to another person; or  
 30 (ii) the use by any person on another person;  
 31 of a contaminated sharp (as defined in IC 16-41-16-2) or  
 32 other paraphernalia that creates an epidemiologically  
 33 demonstrated risk of transmission of HIV by involving  
 34 percutaneous contact.
- 35 ~~(17)~~ (18) Refrain from any direct or indirect contact with an  
 36 individual and, if convicted of an offense under IC 35-46-3, any  
 37 animal belonging to the individual.
- 38 ~~(18)~~ (19) Execute a repayment agreement with the appropriate  
 39 governmental entity or with a person for reasonable costs  
 40 incurred because of the taking, detention, or return of a missing  
 41 child (as defined in IC 10-13-5-4).
- 42 ~~(19)~~ (20) Periodically undergo a laboratory chemical test (as  
 43 defined in ~~IC 14-15-8-1~~ IC 9-13-2-22) or series of chemical tests  
 44 as specified by the court to detect and confirm the presence of a  
 45 controlled substance (as defined in IC 35-48-1-9). The person on  
 46 probation is responsible for any charges resulting from a test and  
 47 shall have the results of any test under this subdivision reported  
 48 to the person's probation officer by the laboratory.
- 49 ~~(20)~~ (21) If the person was confined in a penal facility, execute  
 50 a reimbursement plan as directed by the court and make

1 repayments under the plan to the authority that operates the  
 2 penal facility for all or part of the costs of the person's  
 3 confinement in the penal facility. The court shall fix an amount  
 4 that:

5 (A) may not exceed an amount the person can or will be  
 6 able to pay;

7 (B) does not harm the person's ability to reasonably be self  
 8 supporting or to reasonably support any dependent of the  
 9 person; and

10 (C) takes into consideration and gives priority to any other  
 11 restitution, reparation, repayment, or fine the person is  
 12 required to pay under this section.

13 ~~(21)~~ (22) Refrain from owning, harboring, or training an animal.

14 ~~(22)~~ (23) Participate in a reentry court program.

15 (b) When a person is placed on probation, the person shall be  
 16 given a written statement specifying:

17 (1) the conditions of probation; and

18 (2) that if the person violates a condition of probation during the  
 19 probationary period, a petition to revoke probation may be filed  
 20 before the earlier of the following:

21 (A) One (1) year after the termination of probation.

22 (B) Forty-five (45) days after the state receives notice of the  
 23 violation.

24 (c) As a condition of probation, the court may require that the  
 25 person serve a term of imprisonment in an appropriate facility at the  
 26 time or intervals (consecutive or intermittent) within the period of  
 27 probation the court determines.

28 (d) Intermittent service may be required only for a term of not  
 29 more than sixty (60) days and must be served in the county or local  
 30 penal facility. The intermittent term is computed on the basis of the  
 31 actual days spent in confinement and shall be completed within one (1)  
 32 year. A person does not earn credit time while serving an intermittent  
 33 term of imprisonment under this subsection. When the court orders  
 34 intermittent service, the court shall state:

35 (1) the term of imprisonment;

36 (2) the days or parts of days during which a person is to be  
 37 confined; and

38 (3) the conditions.

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

44 (f) When a court imposes a condition of probation described in  
 45 subsection ~~(a)(17)~~: (a)(18):

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

47 (2) the prosecuting attorney shall file a confidential form  
 48 prescribed or approved by the division of state court  
 49 administration with the clerk.

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

- 1 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~  
 2 **IC 10-13-6-10(a);**  
 3 (2) who has not previously provided a DNA sample in  
 4 accordance with IC 10-13-6; and  
 5 (3) whose sentence does not involve a commitment to the  
 6 department of correction;

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

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

13 SECTION 7. IC 35-38-2.5-6, AS AMENDED BY P.L.126-2012,  
 14 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2013]: Sec. 6. An order for home detention of an offender  
 16 under section 5 of this chapter must include the following:

- 17 (1) A requirement that the offender be confined to the offender's  
 18 home at all times except when the offender is:  
 19 (A) working at employment approved by the court or  
 20 traveling to or from approved employment;  
 21 (B) unemployed and seeking employment approved for the  
 22 offender by the court;  
 23 (C) undergoing medical, psychiatric, mental health  
 24 treatment, counseling, or other treatment programs  
 25 approved for the offender by the court;  
 26 (D) attending an educational institution or a program  
 27 approved for the offender by the court;  
 28 (E) attending a regularly scheduled religious service at a  
 29 place of worship; or  
 30 (F) participating in a community work release or  
 31 community restitution or service program approved for the  
 32 offender by the court.  
 33 (2) Notice to the offender that violation of the order for home  
 34 detention may subject the offender to prosecution for the crime  
 35 of escape under IC 35-44.1-3-4.  
 36 (3) A requirement that the offender abide by a schedule prepared  
 37 by the probation department, or by a community corrections  
 38 program ordered to provide supervision of the offender's home  
 39 detention, specifically setting forth the times when the offender  
 40 may be absent from the offender's home and the locations the  
 41 offender is allowed to be during the scheduled absences.  
 42 (4) A requirement that the offender is not to commit another  
 43 crime during the period of home detention ordered by the court.  
 44 (5) A requirement that the offender obtain approval from the  
 45 probation department or from a community corrections program  
 46 ordered to provide supervision of the offender's home detention  
 47 before the offender changes residence or the schedule described  
 48 in subdivision (3).  
 49 (6) A requirement that the offender maintain:  
 50 (A) a working telephone in the offender's home; and

- 1 (B) if ordered by the court, a monitoring device in the  
 2 offender's home or on the offender's person, or both.
- 3 (7) A requirement that the offender pay a home detention fee set  
 4 by the court in addition to the probation user's fee required under  
 5 IC 35-38-2-1 or IC 31-40. However, the fee set under this  
 6 subdivision may not exceed the maximum fee specified by the  
 7 department of correction under IC 11-12-2-12.
- 8 (8) A requirement that the offender abide by other conditions of  
 9 probation set by the court under IC 35-38-2-2.3.
- 10 (9) A requirement that an offender:
- 11 (A) who is ~~convicted of an offense~~ described in  
 12 ~~IC 10-13-6-10; IC 10-13-6-10(a);~~
- 13 (B) who has not previously provided a DNA sample in  
 14 accordance with IC 10-13-6; and
- 15 (C) whose sentence does not involve a commitment to the  
 16 department of correction;  
 17 provide a DNA sample.
- 18 SECTION 8. IC 35-38-2.6-3, AS AMENDED BY P.L.173-2006,  
 19 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2013]: Sec. 3. (a) The court may, at the time of sentencing,  
 21 suspend the sentence and order a person to be placed in a community  
 22 corrections program as an alternative to commitment to the department  
 23 of correction. The court may impose reasonable terms on the  
 24 placement. A court shall require a person:
- 25 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~  
 26 **IC 10-13-6-10(a);**
- 27 (2) who has not previously provided a DNA sample in  
 28 accordance with IC 10-13-6; and
- 29 (3) whose sentence does not involve a commitment to the  
 30 department of correction;  
 31 to provide a DNA sample as a term of placement.
- 32 (b) Placement in a community corrections program under this  
 33 chapter is subject to the availability of residential beds or home  
 34 detention units in a community corrections program.
- 35 (c) A person placed under this chapter is responsible for the  
 36 person's own medical care while in the placement program.
- 37 (d) Placement under this chapter is subject to the community  
 38 corrections program receiving a written presentence report or  
 39 memorandum from a county probation agency.  
 (Reference is to SB 2 as introduced.)

**and when so amended that said bill be reassigned to the Senate Committee on Judiciary.**

---

LONG, Chairperson