

Members

Sen. Richard Bray, Chairperson
Sen. Randall Head
Sen. Greg Taylor
Sen. Lindel Hume
Rep. Ralph Foley
Rep. Greg Steuerwald
Rep. Matt Pierce
Rep. Linda Lawson
Judge John Marnocha
Judge Lance D. Hamner
Professor Craig Bradley
Attorney General Greg Zoeller
Commissioner Bruce Lemmon
David Powell
Larry Landis
Chief Justice Randall Shepard



CRIMINAL CODE EVALUATION COMMISSION

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Authority: P.L. 182-2009(ss)

MEETING MINUTES¹

Meeting Date: November 17, 2011
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 9

Members Present: Sen. Richard Bray, Chairperson; Sen. Randall Head; Sen. Greg Taylor; Sen. Lindel Hume; Rep. Ralph Foley; Rep. Greg Steuerwald; Rep. Matt Pierce; Rep. Linda Lawson; Judge John Marnocha; Judge Lance D. Hamner; Attorney General Greg Zoeller; Commissioner Bruce Lemmon; David Powell; Larry Landis.

Members Absent: Chief Justice Randall Shepard; Professor Craig Bradley.

Senator Bray called the meeting to order at 1:20 p.m. and told the Commission members that at this meeting they would review and vote on preliminary drafts that have been prepared by LSA staff. He also told the members that this Commission will exist for another year before its enabling legislation expires. He also expects to have a final meeting of the Commission in December.

Senator Bray recognized Senator Head to speak on Child solicitation – SB 29 (2011).

Senator Head told Commission members that this bill proposes to make child solicitation a Class C felony for a person who is at least 21 years of age to: (1) knowingly or intentionally solicit a child less than 14 years of age, or an individual the person believes to be a child less than 14 years of age, to engage in sexual intercourse, deviate sexual conduct, or any fondling

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

or touching intended to arouse or satisfy the sexual desires of either the child or the older person; and (2) perform an overt act demonstrating an intent to physically meet the child.

Members of the Commission asked Senator Head to defer voting on this bill until after the Commission examined a proposal to realign the penalties for various crimes. Senator Head agreed.

Senator Bray deferred action on this bill until the next meeting.

Rep. Foley presented a series of bills dealing with criminal justice issues.

PD 3471 has the following provisions:

- It requires the Department of Correction (DOC) to: (1) determine the average daily marginal cost of incarcerating an offender; (2) determine the average length of stay for certain Class D felony offenders in the department; and (3) administer an incentive and disincentive program under which counties are rewarded for reducing the number of Class D felony offenders committed to the department.
- It requires each county to establish a County Offender Fund.
- It requires the Division of State Court Administration to submit a report to the DOC detailing the number of Class D felony convictions for each county.

Senator Bray withdrew the bill.

PD 3481 (Probation Improvement Fund) has the following provisions:

- It establishes the Probation Improvement Fund administered by the Indiana Judicial Conference to award grants based on the recommendation by the Department of Correction to: (1) county probation departments that supervise persons convicted of a felony to promote the adoption of certain best practices to improve probation administration and services and reduce probation revocations; and (2) counties that supervise persons who have been convicted of a felony to consolidate and improve the efficiency of probation administration and services and community corrections programs.
- It creates the County Offender Deferral Fee and the Pretrial Diversion Fee for infraction or ordinance violations.
- It requires the clerk of a circuit court to distribute monthly to the State Auditor for deposit in the Probation Improvement Fund 100% of the County Offender Deferral Fee and the Pretrial Diversion Fee for infraction or ordinance violations.

The Commission voted to recommend introduction of PD 3481 and to investigate other funding sources for probation improvement funding by vote of 9 to 5.

PD 3499 has the following provisions:

- It creates the Forensic Addiction Fund as a funding source for grants to probation departments and community corrections programs to increase substance abuse treatment access for individuals on probation or in a community corrections program.
- It requires the Judicial Conference of Indiana to administer the fund.

The Commission voted to recommend introduction of PD 3499 by a vote of 13 to 0

PD 3488 would restrict Class D felony offenders from being committed to DOC if their projected time of incarceration was less than six months.

Rep. Foley withdrew this bill.

PD 3201 requires the Indiana Judicial Conference to adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation. It also creates procedures that probation officers can use to sanction persons on probation.

The Commission voted to recommend introduction of PD 3201 by a vote of 10 to 2.

PD 3501 proposes the following:

- It requires a sentencing court to inform the Department of Correction if the person sentenced is a credit-restricted felon.
- It requires a court that sentences a person as a credit-restricted felon to state in the sentencing order and the abstract of judgment that the person is a credit-restricted felon.
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The Commission voted to recommend introduction of the bill by a vote of 12 to 0.

PD 3434 (victim notification system) proposes the following:

- It requires the Department of Correction to: (1) establish an automated victim notification system; and (2) notify a registered crime victim of changes in a committed offender's facility location and date of release if the offender was sentenced for committing a crime against the victim.
- It specifies when DOC shall make certain victim notifications.
- It provides that if a court imposes a felony sentence that involves a commitment to DOC, the court shall state in the sentencing order and abstract of judgment certain information.

The Commission voted to recommend introduction of the bill by a vote of 11 to 1.

PD 3442 requires that credit time earned by certain offenders shall be reduced if application of the credit time would result in postconviction release or a community transition program assignment in less than 45 days after the person earns the credit time.

The Commission voted to recommend introduction of PD 3442 by a vote of 9 to 3

PD 3484 has the following provisions:

- It authorizes a law enforcement officer to arrest a person who has committed theft, even if the theft is not committed in the officer's presence.
- It consolidates cemetery mischief, unlawful acts relating to caves, and computer tampering into the criminal mischief statute, and repeals redundant statutes.
- It provides that a person who breaks and enters with the intent to commit theft commits burglary.
- It makes theft a: (1) Class A misdemeanor if the amount of property involved in the theft is less than \$750; (2) Class D felony if the amount is at least \$750 and less than \$50,000, if the item stolen was a firearm, or if the person has a prior conviction; and (3) a Class C felony if the amount of property involved is at least \$50,000.

The Commission could not recommend PD 3484 for introduction. The vote was 8 to 4. Nine votes are necessary for any bill to be recommended by the Commission.

PDOC 20121225003 has the following provisions:

- It provides that recruiting, harboring, or transporting another person to participate in sexual conduct by force, threat of force, or fraud constitutes human trafficking.
- It provides that a person who recruits, harbors, or transports a child less than 16 year of age with the intent of engaging the child in forced labor, involuntary servitude, prostitution, or sexual conduct commits promotion of human trafficking of a minor, a Class B felony.
- It prohibits a person at least 18 years of age from selling or transferring custody of a child less than 16 for the purpose of prostitution or participation in sexual conduct.

The Commission voted to recommend introduction of this document as a bill by a vote of 11 to 1.

Senator Bray announced that final meeting for the interim would be in December at a date to be specified at a later time.

The meeting was adjourned at 4:17 p.m.

SENATE BILL No. 29

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-42-4-6.

Synopsis: Child solicitation. Makes it child solicitation, a Class C felony, for a person who is at least 21 years of age to: (1) knowingly or intentionally solicit a child less than 14 years of age, or an individual the person believes to be a child less than 14 years of age, to engage in sexual intercourse, deviate sexual conduct, or any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person; and (2) perform an overt act demonstrating an intent to physically meet the child. Makes the offense: (1) a Class B felony if it is committed by means of a computer network; and (2) a Class A felony if it is committed by means of a computer network by a person who has a prior conviction for child solicitation by means of a computer network.

Effective: July 1, 2011.

Head

January 5, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

deferral

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Introduced

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 29

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 35-42-4-6, AS AMENDED BY P.L.216-2007,
2 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 6. (a) As used in this section, "solicit" means to
4 command, authorize, urge, incite, request, or advise an individual:
5 (1) in person;
6 (2) by telephone;
7 (3) in writing;
8 (4) by using a computer network (as defined in IC 35-43-2-3(a));
9 (5) by advertisement of any kind; or
10 (6) by any other means;
11 to perform an act described in subsection (b), or (c), or (d).
12 (b) Except as provided in subsection (c), a person at least eighteen
13 (18) years of age or older who knowingly or intentionally solicits a
14 child under less than fourteen (14) years of age, or an individual the
15 person believes to be a child under less than fourteen (14) years of age,
16 to engage in:
17 (1) sexual intercourse;



1 (2) deviate sexual conduct; or
 2 (3) any fondling or touching intended to arouse or satisfy the
 3 sexual desires of either the child or the older person:
 4 commits child solicitation, a Class D felony. However, the offense is
 5 a Class C felony if it is committed by using a computer network (as
 6 defined in IC 35-43-2-3(a)), and a Class B felony if the person commits
 7 the offense by using a computer network (as defined in
 8 IC 35-43-2-3(a)) and has a previous unrelated conviction for
 9 committing the offense by using a computer network (as defined in
 10 IC 35-43-2-3(a)).

11 (c) A person at least twenty-one (21) years of age who:
 12 (1) knowingly or intentionally solicits a child less than
 13 fourteen (14) years of age, or an individual the person believes
 14 to be a child less than fourteen (14) years of age, to engage in:
 15 (A) sexual intercourse;
 16 (B) deviate sexual conduct; or
 17 (C) any fondling or touching intended to arouse or satisfy
 18 the sexual desires of either the child or the older person;
 19 and

20 (2) performs an overt act demonstrating an intent to
 21 physically meet the child;
 22 commits child solicitation, a Class C felony. However, the offense
 23 is a Class B felony if it is committed by using a computer network
 24 (as defined in IC 35-43-2-3(a)), and a Class A felony if the person
 25 commits the offense by using a computer network (as defined in
 26 IC 35-43-2-3(a)) and has a previous unrelated conviction for
 27 committing the offense by using a computer network (as defined in
 28 IC 35-43-2-3(a)).

29 (d) A person at least twenty-one (21) years of age who
 30 knowingly or intentionally solicits a child at least fourteen (14) years
 31 of age but less than sixteen (16) years of age, or an individual the
 32 person believes to be a child at least fourteen (14) years of age but less
 33 than sixteen (16) years of age, to engage in:

34 (1) sexual intercourse;
 35 (2) deviate sexual conduct; or
 36 (3) any fondling or touching intended to arouse or satisfy the
 37 sexual desires of either the child or the older person;

38 commits child solicitation, a Class D felony. However, the offense is
 39 a Class C felony if it is committed by using a computer network (as
 40 defined in IC 35-43-2-3(a)), and a Class B felony if the person commits
 41 the offense by using a computer network (as defined in
 42 IC 35-43-2-3(a)) and has a previous unrelated conviction for

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PRELIMINARY DRAFT
No. 3471

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY

Withdraw

see resolution

DIGEST

Citations Affected: IC 11-8-1-3.1; IC 11-10; IC 33-24-6-3; IC 36-2-21.

Synopsis: County offender fund and offender incentives. Requires the department of correction (department) to: (1) determine the average daily marginal cost of incarcerating an offender; (2) determine the average length of stay for certain Class D felony offenders in the department; and (3) administer an incentive and disincentive program under which counties are rewarded for reducing the number of Class D felony offenders committed to the department. Requires each county to establish a county offender fund. Requires the division of state court administration to submit a report to the department detailing the number of Class D felony convictions for each county.

Effective: July 1, 2012.

this has the probation violations



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

1 SECTION 1. IC 11-8-1-3.1 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 3.1. "Average daily marginal cost of incarcerating an
4 offender" means the average daily cost to the department to
5 commit one (1) additional offender to the department, as
6 determined under IC 11-10-13-1(b).**

7 SECTION 2. IC 11-10-13-1 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. **(a)** The department
9 shall develop a methodology for determining the average daily cost of
10 incarcerating an offender.

11 **(b) The department shall develop a methodology for
12 determining the average daily marginal cost of incarcerating an
13 offender. The costs to be considered in determining the average
14 daily marginal cost of incarcerating an offender:**

15 **(1) must include the additional expenses of providing food,
16 clothing, and health care to a new offender; and**

17 **(2) do not include the costs of new facilities or additional staff.**

18 SECTION 3. IC 11-10-16 IS ADDED TO THE INDIANA CODE
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2012]:

21 **Chapter 16. County Incentives and Disincentives for Class D
22 Felony Offenders**

23 **Sec. 1. The department shall administer a local rehabilitation
24 incentive and disincentive program under which counties may:**

25 **(1) reduce the number of Class D felony offenders committed
26 to the department; and**

27 **(2) maintain fewer Class D felony offender commitments to
28 the department.**

29 **Sec. 2. The department shall determine the average length of
30 stay for a Class D felony offender who has an executed sentence of
31 less than one (1) year in the department. This determination must**



1 be based on a one (1) year period.

2 Sec. 3. (a) Before September 1, 2012, the department shall
3 establish a baseline average number of Class D felony offenders
4 that each county commits annually to the department based on
5 each county's Class D felony commitments to the department in the
6 2008, 2009, 2010, and 2011 calendar years.

7 (b) The department shall provide a local rehabilitation incentive
8 to each county that commits to the department in one (1) calendar
9 year fewer Class D felony offenders than the baseline average
10 established for that county under subsection (a). Each county that
11 has a reduction in Class D felony commitments for a calendar year
12 is entitled to an incentive based on the reduction in the
13 department's incarceration costs attributable to the county's
14 reduction in Class D felony commitments, as determined according
15 to the formula set forth in subsection (c).

16 (c) Before March 1 each year, the department shall calculate the
17 incentive described in subsection (b) using the following formula:

18 STEP ONE: Subtract the number of Class D felony offenders
19 that a county commits to the department in a calendar year
20 from the baseline average established for that county under
21 subsection (a).

22 STEP TWO: If the STEP ONE remainder is not positive, the
23 incentive amount is zero (0). Otherwise, multiply the number
24 of offenders determined under STEP ONE by the average
25 number of days of the length of stay for a Class D felony
26 offender in the department, as determined under section 2 of
27 this chapter.

28 STEP THREE: Multiply the product determined under STEP
29 TWO by the average daily marginal cost of incarcerating an
30 offender, as determined under IC 11-10-13-1(b).

31 STEP FOUR: Multiply the amount determined under STEP
32 THREE by fifty percent (50%).

33 Sec. 4. (a) The department shall create a disincentive to each
34 county that in one (1) calendar year commits to the department:

35 (1) more than ten (10) more Class D felony offenders than the
36 baseline average established for the county under section 3(a)
37 of this chapter; or

38 (2) more offenders than one hundred and five percent (105%)
39 of the baseline average established for the county under
40 section 3(a) of this chapter;

41 whichever is greater.

42 (b) Before March 1 each year, the department shall calculate the
43 disincentive described in subsection (a) using the following
44 formula:

45 STEP ONE: Subtract the baseline average established for a
46 county under section 3(a) of this chapter from the number of



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1 Class D felony offenders that the county commits to the
 2 department in a calendar year.
 3 **STEP TWO:** If the STEP ONE remainder is ten (10) or less,
 4 the disincentive amount is zero (0). Otherwise, multiply the
 5 number of offenders determined under STEP ONE by the
 6 average number of days of the length of stay for a Class D
 7 felony offender in the department, as determined under
 8 section 2 of this chapter.
 9 **STEP THREE:** Multiply the product determined under STEP
 10 TWO by the average daily marginal cost of incarcerating an
 11 offender, as determined under IC 11-10-13-1(b).
 12 **STEP FOUR:** Multiply the product determined under STEP
 13 THREE by fifty percent (50%).

14 **Sec. 5.** The department shall withhold the amount of the
 15 disincentive calculated for a county for a particular year under
 16 section 4 of this chapter from the amount of money the department
 17 is otherwise required to deposit in a county's misdemeanor fund
 18 under IC 11-12-6-13 before September 1 of that year.

19 **Sec. 6. (a)** Before September 1, 2012, the department, using the
 20 report issued by the division of state court administration under
 21 IC 33-24-6-3(2)(F) for calendar year 2011 and the number of Class
 22 D felony offender commitments made to the department in
 23 calendar year 2011, shall determine the number of offenders
 24 convicted in calendar year 2011 of Class D felonies in all counties
 25 and, of that number, the percentage of Class D felony offenders
 26 who were committed to the department. The statewide average
 27 percentage calculated under this subsection is the baseline average
 28 for the purposes of this section.

29 **(b)** Each year after 2011, the department shall provide a local
 30 rehabilitation incentive to each county that does not commit a
 31 larger percentage of its Class D felony offenders to the department
 32 than the baseline average percentage determined under subsection
 33 (a). A county's eligibility for a local rehabilitation incentive under
 34 this section must be determined according to the formula set forth
 35 in subsection (c).

36 **(c)** Before March 1 of each year, the department shall calculate
 37 a county's eligibility for the incentive described in subsection (b)
 38 using the following formula:

39 **STEP ONE:** The department shall determine for a county the
 40 number of Class D felony offenders that the county committed
 41 to the department in the previous calendar year.
 42 **STEP TWO:** The department shall determine the percentage
 43 of Class D felony offenders that the county committed to the
 44 department in the previous calendar year by dividing the
 45 STEP ONE number by the total number of Class D felony
 46 convictions in that county in the previous calendar year, as



1 stated in the report submitted by the division of state court
2 administration under IC 33-24-6-3(2)(F).

3 **STEP THREE:** If the county's percentage of Class D felony
4 offenders committed to the department, as calculated under
5 **STEP TWO**, is lower than the baseline average percentage
6 determined under subsection (a), the county is eligible for an
7 incentive described in subsection (d).

8 (d) The incentive under this section shall be paid from funds
9 remaining from the marginal savings realized by the department
10 as a result of the counties committing fewer Class D felony
11 offenders to the department after the incentives have been
12 distributed under section 3 of this chapter. The department may
13 adopt rules under IC 4-22-2 to distribute the remaining funds to
14 eligible counties equitably, with the amount of each county's
15 incentive being proportional to the extent to which savings realized
16 by the department are attributable to the county's reduction in the
17 percentage of its Class D felony offenders that the county commits
18 to the department.

19 **Sec. 7. (a)** Before June 1 each year, the local incentives
20 calculated under sections 3 and 6 of this chapter shall be provided
21 from the marginal savings realized by the department as a result
22 of the counties committing fewer Class D felony offenders to the
23 department and shall be distributed to a county's county offender
24 fund under IC 36-2-21. The county fiscal body shall redistribute
25 the incentives as set forth in IC 36-2-21-1.

26 (b) If a county has a local community corrections advisory
27 board, the local community corrections advisory board shall make
28 a recommendation to the county's fiscal body regarding how local
29 incentive funds should be distributed.

30 **Sec. 8.** In making the calculations required under this chapter,
31 the department may not consider a Class D felony offender:

- 32 (1) whose probation has been revoked;
33 (2) whose participation in a community corrections program
34 has been terminated as a result of a violation of program
35 requirements;
36 (3) whose participation in a problem solving court program
37 has been terminated as a result of a violation of program
38 requirements; or
39 (4) who is committed temporarily to the department under
40 IC 35-33-11-1.

41 **Sec. 9.** This chapter does not affect the rate that the department
42 pays to house an offender in a jail under IC 35-33-11.

43 **Sec. 10.** The department may adopt rules under IC 4-22-2 to
44 implement this chapter.

45 SECTION 4. IC 33-24-6-3, AS AMENDED BY P.L.1-2010,
46 SECTION 132, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The division of state court
 2 administration shall do the following:
 3 (1) Examine the administrative and business methods and systems
 4 employed in the offices of the clerks of court and other offices
 5 related to and serving the courts and make recommendations for
 6 necessary improvement.
 7 (2) Collect and compile statistical data and other information on
 8 the judicial work of the courts in Indiana. All justices of the
 9 supreme court, judges of the court of appeals, judges of all trial
 10 courts, and any city or town courts, whether having general or
 11 special jurisdiction, court clerks, court reporters, and other
 12 officers and employees of the courts shall, upon notice by the
 13 executive director and in compliance with procedures prescribed
 14 by the executive director, furnish the executive director the
 15 information as is requested concerning the nature and volume of
 16 judicial business. The information must include the following:
 17 (A) The volume, condition, and type of business conducted by
 18 the courts.
 19 (B) The methods of procedure in the courts.
 20 (C) The work accomplished by the courts.
 21 (D) The receipt and expenditure of public money by and for
 22 the operation of the courts.
 23 (E) The methods of disposition or termination of cases.
 24 **(F) The number of offenders convicted of Class D felonies**
 25 **in each county in the previous calendar year.**
 26 (3) Prepare and publish reports, not less than one (1) or more than
 27 two (2) times per year, on the nature and volume of judicial work
 28 performed by the courts as determined by the information
 29 required in subdivision ~~(2)~~ **(2)(A) through (2)(E). Information**
 30 **collected under subdivision (2)(F) shall be submitted to the**
 31 **department of correction on or before May 1 of each year.**
 32 (4) Serve the judicial nominating commission and the judicial
 33 qualifications commission in the performance by the commissions
 34 of their statutory and constitutional functions.
 35 (5) Administer the civil legal aid fund as required by IC 33-24-12.
 36 (6) Administer the judicial technology and automation project
 37 fund established by section 12 of this chapter.
 38 (7) Develop a standard protocol for the exchange of information,
 39 by not later than December 31, 2009:
 40 (A) between the protective order registry, established by
 41 IC 5-2-9-5.5, and county court case management systems;
 42 (B) at the option of the county prosecuting attorney, for:
 43 (i) a prosecuting attorney's case management system;
 44 (ii) a county court case management system; and
 45 (iii) a county court case management system developed and
 46 operated by the division of state court administration;



1 to interface with the electronic traffic tickets, as defined by
2 IC 9-30-3-2.5; and
3 (C) between county court case management systems and the
4 case management system developed and operated by the
5 division of state court administration.

6 (8) Establish and administer an electronic system for receiving
7 information that relates to certain individuals who may be
8 prohibited from possessing a firearm and transmitting this
9 information to the Federal Bureau of Investigation for inclusion
10 in the NICS.

11 (b) All forms to be used in gathering data must be approved by the
12 supreme court and shall be distributed to all judges and clerks before
13 the start of each period for which reports are required.

14 (c) The division may adopt rules to implement this section.

15 SECTION 5. IC 36-2-21 IS ADDED TO THE INDIANA CODE AS
16 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2012]:

18 **Chapter 21. County Offender Fund**

19 **Sec. 1. Each county shall establish, by resolution, a county**
20 **offender fund to redistribute incentives received under IC 11-10-16**
21 **to:**

- 22 (1) programs that defray the expense of housing an offender
- 23 in jail;
- 24 (2) probation programs;
- 25 (3) work release programs;
- 26 (4) community corrections programs;
- 27 (5) problem solving courts; and
- 28 (6) substance abuse treatment programs.

29 **Sec. 2. Money in a county offender fund established under**
30 **section 1 of this chapter may be spent only under an appropriation**
31 **from the county fiscal body.**





PRELIMINARY DRAFT
No. 3481

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 11-13-2.5; IC 33-37.

Synopsis: Probation improvement fund. Establishes the probation improvement fund administered by the judicial conference to award grants based on the recommendation by the department of correction to: (1) county probation departments that supervise persons convicted of a felony to promote the adoption of certain best practices to improve probation administration and services and reduce probation revocations; and (2) counties that supervise persons who have been convicted of a felony to consolidate and improve the efficiency of probation administration and services and community corrections programs. Creates the county offender deferral fee and the pretrial diversion fee for infraction or ordinance violations. Requires the clerk of a circuit court to distribute monthly to the state auditor for deposit in the probation improvement fund 100% of the county offender deferral fee and the pretrial diversion fee for infraction or ordinance violations.

Effective: July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

1 SECTION 1. IC 11-13-2.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]:

4 **Chapter 2.5. Probation Improvement Fund**

5 **Sec. 1. As used in this chapter, "fund" refers to the probation**
6 **improvement fund established by section 2 of this chapter.**

7 **Sec. 2. (a) The probation improvement fund is established to**
8 **provide grants under sections 3 and 4 of this chapter. The fund**
9 **shall be administered by the judicial conference of Indiana.**

10 **(b) Sources of money for the fund consist of the following:**

11 **(1) Donations, gifts, and money received from any other**
12 **source, including transfers from other funds or accounts.**

13 **(2) Amounts deposited under IC 33-37-7-2(o).**

14 **(3) Amounts deposited under IC 33-37-7-8(j).**

15 **(c) The expenses of administering the fund shall be paid from**
16 **money in the fund.**

17 **(d) The treasurer of state shall invest the money in the fund not**
18 **currently needed to meet the obligations of the fund in the same**
19 **manner as other public money may be invested. Interest that**
20 **accrues from these investments shall be deposited in the fund.**

21 **(e) Money in the fund at the end of a state fiscal year does not**
22 **revert to the state general fund.**

23 **Sec. 3. (a) After the department of correction makes a**
24 **recommendation to the judicial conference of Indiana, the judicial**
25 **conference may award a grant from the fund to a county probation**
26 **department that supervises persons who have been convicted of a**
27 **felony to:**

28 **(1) promote the county probation department's adoption of**
29 **best practices:**

30 **(A) to:**

31 **(i) focus supervision resources on persons who pose a**



- 1 high likelihood of committing another offense, as
 2 determined by a validated risk assessment;
- 3 (ii) develop and use a progressive sanctions policy to
 4 guide decisions concerning how to respond to violations
 5 of conditions of supervision; and
- 6 (iii) reduce the risk posed by persons who have been
 7 convicted of a felony and are on probation, through
 8 effective supervision, sanctions, and addressing any
 9 needs the persons have for substance abuse treatment,
 10 mental health services, or other services; and
- 11 (B) as approved by the judicial conference of Indiana; and
- 12 (2) reduce the number of probation revocations:
- 13 (A) involving persons under the supervision of the county
 14 probation department who have been convicted of a
 15 felony; and
- 16 (B) resulting in a person serving a prison sentence.
- 17 (b) To receive a grant under this section, a county probation
 18 department must submit an application to the judicial conference
 19 of Indiana:
- 20 (1) on a form; and
- 21 (2) in the manner;
- 22 prescribed by the judicial conference of Indiana.
- 23 (c) The judicial conference of Indiana shall determine the
 24 amount of a grant awarded under this section.
- 25 Sec. 4. (a) The judicial conference of Indiana:
- 26 (1) may award a grant from the fund to a county that
 27 supervises persons who have been convicted of a felony to
 28 consolidate and improve the efficiency of:
- 29 (A) probation administration and services; and
- 30 (B) community corrections programs;
- 31 in the county; and
- 32 (2) shall make the awarding of the grant contingent on the
 33 ability of the county probation department to demonstrate a
 34 minimal level of coordination with other offender supervision
 35 agencies operating in the same county, including community
 36 corrections programs, parole authorities, and other probation
 37 agencies.
- 38 (b) To receive a grant under this section, a county must submit
 39 an application to the judicial conference of Indiana:
- 40 (1) on a form; and
- 41 (2) in the manner;
- 42 prescribed by the judicial conference of Indiana.
- 43 (c) The judicial conference of Indiana shall determine the
 44 amount of a grant awarded under this section.
- 45 Sec. 5. The judicial conference of Indiana may adopt rules
 46 necessary to implement this chapter.



1 **Sec. 6. Counties may coordinate resources and programming**
 2 **with funds received under this chapter.**

3 SECTION 2. IC 33-37-4-1, AS AMENDED BY P.L.182-2009(ss),
 4 SECTION 392, IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) For each action that results in
 6 a felony conviction under IC 35-50-2 or a misdemeanor conviction
 7 under IC 35-50-3, the clerk shall collect from the defendant a criminal
 8 costs fee of one hundred twenty dollars (\$120).

9 (b) In addition to the criminal costs fee collected under this section,
 10 the clerk shall collect from the defendant the following fees if they are
 11 required under IC 33-37-5:

- 12 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
 13 IC 33-37-5-4).
 14 (2) A marijuana eradication program fee (IC 33-37-5-7).
 15 (3) An alcohol and drug services program user fee
 16 (IC 33-37-5-8(b)).
 17 (4) A law enforcement continuing education program fee
 18 (IC 33-37-5-8(c)).
 19 (5) A drug abuse, prosecution, interdiction, and correction fee
 20 (IC 33-37-5-9).
 21 (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
 22 (7) A child abuse prevention fee (IC 33-37-5-12).
 23 (8) A domestic violence prevention and treatment fee
 24 (IC 33-37-5-13).
 25 (9) A highway ~~work~~ **worksite** zone fee (IC 33-37-5-14).
 26 (10) A deferred prosecution fee (~~IC 33-37-5-17~~).
 27 **(IC 33-37-5-17(b))**.
 28 (11) A document storage fee (IC 33-37-5-20).
 29 (12) An automated record keeping fee (IC 33-37-5-21).
 30 (13) A late payment fee (IC 33-37-5-22).
 31 (14) A sexual assault victims assistance fee (IC 33-37-5-23).
 32 (15) A public defense administration fee (IC 33-37-5-21.2).
 33 (16) A judicial insurance adjustment fee (IC 33-37-5-25).
 34 (17) A judicial salaries fee (IC 33-37-5-26).
 35 (18) A court administration fee (IC 33-37-5-27).
 36 (19) A DNA sample processing fee (IC 33-37-5-26.2).

37 (c) Instead of the criminal costs fee prescribed by this section,
 38 except for the automated record keeping fee (IC 33-37-5-21), the clerk
 39 shall collect a pretrial diversion program fee if an agreement between
 40 the prosecuting attorney and the accused person entered into under
 41 IC 33-39-1-8 requires payment of those fees by the accused person.
 42 The pretrial diversion program fee is:

- 43 (1) an initial user's fee of fifty dollars (\$50); and
 44 (2) a monthly user's fee of ten dollars (\$10) for each month that
 45 the person remains in the pretrial diversion program.

46 **The clerk shall collect from an accused person paying a pretrial**



1 **diversion program fee under this subsection an additional county**
 2 **offender deferral fee of thirty dollars (\$30) under IC 33-37-5-17(c).**

3 (d) The clerk shall transfer to the county auditor or city or town
 4 fiscal officer the following fees, not later than thirty (30) days after the
 5 fees are collected:

- 6 (1) The pretrial diversion fee.
 7 (2) The marijuana eradication program fee.
 8 (3) The alcohol and drug services program user fee.
 9 (4) The law enforcement continuing education program fee.

10 The auditor or fiscal officer shall deposit fees transferred under this
 11 subsection in the appropriate user fee fund established under
 12 IC 33-37-8.

13 (e) Unless otherwise directed by a court, if a clerk collects only part
 14 of a criminal costs fee from a defendant under this section, the clerk
 15 shall distribute the partial payment of the criminal costs fee as follows:

- 16 (1) The clerk shall apply the partial payment to general court
 17 costs.
 18 (2) If there is money remaining after the partial payment is
 19 applied to general court costs under subdivision (1), the clerk
 20 shall distribute the remainder of the partial payment for deposit in
 21 the appropriate county user fee fund.
 22 (3) If there is money remaining after distribution under
 23 subdivision (2), the clerk shall distribute the remainder of the
 24 partial payment for deposit in the state user fee fund.
 25 (4) If there is money remaining after distribution under
 26 subdivision (3), the clerk shall distribute the remainder of the
 27 partial payment to any other applicable user fee fund.
 28 (5) If there is money remaining after distribution under
 29 subdivision (4), the clerk shall apply the remainder of the partial
 30 payment to any outstanding fines owed by the defendant.

31 SECTION 3. IC 33-37-4-2, AS AMENDED BY P.L.182-2009(ss),
 32 SECTION 393, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Except as provided in
 34 subsections (d) and (e), for each action that results in a judgment:

- 35 (1) for a violation constituting an infraction; or
 36 (2) for a violation of an ordinance of a municipal corporation (as
 37 defined in IC 36-1-2-10);

38 the clerk shall collect from the defendant an infraction or ordinance
 39 violation costs fee of seventy dollars (\$70).

40 (b) In addition to the infraction or ordinance violation costs fee
 41 collected under this section, the clerk shall collect from the defendant
 42 the following fees, if they are required under IC 33-37-5:

- 43 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
 44 IC 33-37-5-4).
 45 (2) An alcohol and drug services program user fee
 46 (IC 33-37-5-8(b)).



- 1 (3) A law enforcement continuing education program fee
- 2 (IC 33-37-5-8(c)).
- 3 (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- 4 (5) A highway ~~work~~ **worksite** zone fee (IC 33-37-5-14).
- 5 (6) A deferred prosecution fee (~~IC 33-37-5-17~~).
- 6 **(IC 33-37-5-17(b))**.
- 7 (7) A jury fee (IC 33-37-5-19).
- 8 (8) A document storage fee (IC 33-37-5-20).
- 9 (9) An automated record keeping fee (IC 33-37-5-21).
- 10 (10) A late payment fee (IC 33-37-5-22).
- 11 (11) A public defense administration fee (IC 33-37-5-21.2).
- 12 (12) A judicial insurance adjustment fee (IC 33-37-5-25).
- 13 (13) A judicial salaries fee (IC 33-37-5-26).
- 14 (14) A court administration fee (IC 33-37-5-27).
- 15 (15) A DNA sample processing fee (IC 33-37-5-26.2).
- 16 **(16) A pretrial diversion fee for an infraction or ordinance**
- 17 **violation (IC 33-37-5-31).**

18 (c) The clerk shall transfer to the county auditor or fiscal officer of
 19 the municipal corporation the following fees, not later than thirty (30)
 20 days after the fees are collected:

- 21 (1) The alcohol and drug services program user fee
- 22 (IC 33-37-5-8(b)).
- 23 (2) The law enforcement continuing education program fee
- 24 (IC 33-37-5-8(c)).
- 25 (3) The deferral program fee (subsection ~~(e)~~: **(e)(1)**).

26 The auditor or fiscal officer shall deposit the fees in the user fee fund
 27 established under IC 33-37-8.

28 (d) The defendant is not liable for any ordinance violation costs fee
 29 in an action if all the following apply:

- 30 (1) The defendant was charged with an ordinance violation
- 31 subject to IC 33-36.
- 32 (2) The defendant denied the violation under IC 33-36-3.
- 33 (3) Proceedings in court against the defendant were initiated
- 34 under IC 34-28-5 (or IC 34-4-32 before its repeal).
- 35 (4) The defendant was tried and the court entered judgment for
- 36 the defendant for the violation.

37 (e) Instead of the infraction or ordinance violation costs fee
 38 prescribed by subsection (a), except for the automated record keeping
 39 fee (IC 33-37-5-21), the clerk shall collect a deferral program fee if an
 40 agreement between a prosecuting attorney or an attorney for a
 41 municipal corporation and the person charged with a violation entered
 42 into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires
 43 payment of those fees by the person charged with the violation. The
 44 deferral program fee is:

- 45 (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- 46 (2) a monthly user's fee not to exceed ten dollars (\$10) for each



1 month the person remains in the deferral program.

2 (f) The fees prescribed by this section are costs for purposes of
3 IC 34-28-5-5 and may be collected from a defendant against whom
4 judgment is entered. Any penalty assessed is in addition to costs.

5 SECTION 4. IC 33-37-5-17, AS AMENDED BY P.L.176-2005,
6 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2012]: Sec. 17. (a) This section applies to actions in which the
8 court defers prosecution under IC 33-39-1-8.

9 (b) In each action in which prosecution is deferred, the clerk shall
10 collect from the defendant a deferred prosecution fee of one hundred
11 twenty dollars (\$120) for court costs.

12 (c) **In each action in which prosecution is deferred, the clerk
13 shall collect from the defendant a county offender deferral fee of
14 thirty dollars (\$30).**

15 SECTION 5. IC 33-37-5-31 IS ADDED TO THE INDIANA CODE
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2012]: Sec. 31. **In each action in which a person is required to
18 pay a pretrial diversion fee for an infraction or ordinance
19 violation, the clerk shall collect a fee of fifteen dollars (\$15).**

20 SECTION 6. IC 33-37-7-2, AS AMENDED BY P.L.229-2011,
21 SECTION 260, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The clerk of a circuit court
23 shall distribute semiannually to the auditor of state as the state share for
24 deposit in the homeowner protection unit account established by
25 IC 4-6-12-9 one hundred percent (100%) of the automated record
26 keeping fees collected under IC 33-37-5-21 with respect to actions
27 resulting in the accused person entering into a pretrial diversion
28 program agreement under IC 33-39-1-8 or a deferral program
29 agreement under IC 34-28-5-1 and for deposit in the state general fund
30 seventy percent (70%) of the amount of fees collected under the
31 following:

- 32 (1) IC 33-37-4-1(a) (criminal costs fees).
33 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
34 (3) IC 33-37-4-3(a) (juvenile costs fees).
35 (4) IC 33-37-4-4(a) (civil costs fees).
36 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
37 (6) IC 33-37-4-7(a) (probate costs fees).
38 (7) ~~IC 33-37-5-17~~ IC 33-37-5-17(b) (deferred prosecution fees).

39 (b) The clerk of a circuit court shall distribute semiannually to the
40 auditor of state for deposit in the state user fee fund established in
41 IC 33-37-9-2 the following:

- 42 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
43 interdiction, and correction fees collected under
44 IC 33-37-4-1(b)(5).
45 (2) Twenty-five percent (25%) of the alcohol and drug
46 countermeasures fees collected under IC 33-37-4-1(b)(6),



- 1 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 2 (3) Fifty percent (50%) of the child abuse prevention fees
3 collected under IC 33-37-4-1(b)(7).
- 4 (4) One hundred percent (100%) of the domestic violence
5 prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- 6 (5) One hundred percent (100%) of the highway work zone fees
7 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 8 (6) One hundred percent (100%) of the safe schools fee collected
9 under IC 33-37-5-18.
- 10 (7) The following:
- 11 (A) For a county operating under the state's automated judicial
12 system, one hundred percent (100%) of the automated record
13 keeping fee (IC 33-37-5-21) not distributed under subsection
14 (a).
- 15 (B) For a county not operating under the state's automated
16 judicial system, eighty percent (80%) of the automated record
17 keeping fee (IC 33-37-5-21) not distributed under subsection
18 (a).
- 19 (c) The clerk of a circuit court shall distribute monthly to the county
20 auditor the following:
- 21 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
22 interdiction, and correction fees collected under
23 IC 33-37-4-1(b)(5).
- 24 (2) Seventy-five percent (75%) of the alcohol and drug
25 countermeasures fees collected under IC 33-37-4-1(b)(6),
26 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 27 The county auditor shall deposit fees distributed by a clerk under this
28 subsection into the county drug free community fund established under
29 IC 5-2-11.
- 30 (d) The clerk of a circuit court shall distribute monthly to the county
31 auditor fifty percent (50%) of the child abuse prevention fees collected
32 under IC 33-37-4-1(b)(7). The county auditor shall deposit fees
33 distributed by a clerk under this subsection into the county child
34 advocacy fund established under IC 12-17-17.
- 35 (e) The clerk of a circuit court shall distribute monthly to the county
36 auditor one hundred percent (100%) of the late payment fees collected
37 under IC 33-37-5-22. The county auditor shall deposit fees distributed
38 by a clerk under this subsection as follows:
- 39 (1) If directed to do so by an ordinance adopted by the county
40 fiscal body, the county auditor shall deposit forty percent (40%)
41 of the fees in the clerk's record perpetuation fund established
42 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
43 county general fund.
- 44 (2) If the county fiscal body has not adopted an ordinance
45 described in subdivision (1), the county auditor shall deposit all
46 the fees in the county general fund.



1 (f) The clerk of the circuit court shall distribute semiannually to the
 2 auditor of state for deposit in the sexual assault victims assistance
 3 account established by IC 5-2-6-23(h) one hundred percent (100%) of
 4 the sexual assault victims assistance fees collected under
 5 IC 33-37-5-23.

6 (g) The clerk of a circuit court shall distribute monthly to the county
 7 auditor the following:

8 (1) One hundred percent (100%) of the support and maintenance
 9 fees for cases designated as non-Title IV-D child support cases in
 10 the Indiana support enforcement tracking system (ISETS)
 11 collected under IC 33-37-5-6.

12 (2) The percentage share of the support and maintenance fees for
 13 cases designated as **Title** IV-D child support cases in ISETS
 14 collected under IC 33-37-5-6 that is reimbursable to the county at
 15 the federal financial participation rate.

16 The county clerk shall distribute monthly to the office of the secretary
 17 of family and social services the percentage share of the support and
 18 maintenance fees for cases designated as Title IV-D child support cases
 19 in ISETS collected under IC 33-37-5-6 that is not reimbursable to the
 20 county at the applicable federal financial participation rate.

21 (h) The clerk of a circuit court shall distribute monthly to the county
 22 auditor the following:

23 (1) One hundred percent (100%) of the small claims service fee
 24 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in
 25 the county general fund.

26 (2) One hundred percent (100%) of the small claims garnishee
 27 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for
 28 deposit in the county general fund.

29 (i) This subsection does not apply to court administration fees
 30 collected in small claims actions filed in a court described in IC 33-34.
 31 The clerk of a circuit court shall semiannually distribute to the auditor
 32 of state for deposit in the state general fund one hundred percent
 33 (100%) of the following:

34 (1) The public defense administration fee collected under
 35 IC 33-37-5-21.2.

36 (2) The judicial salaries fees collected under IC 33-37-5-26.

37 (3) The DNA sample processing fees collected under
 38 IC 33-37-5-26.2.

39 (4) The court administration fees collected under IC 33-37-5-27.

40 (j) The clerk of a circuit court shall semiannually distribute to the
 41 auditor of state for deposit in the judicial branch insurance adjustment
 42 account established by IC 33-38-5-8.2 one hundred percent (100%) of
 43 the judicial insurance adjustment fee collected under IC 33-37-5-25.

44 (k) The proceeds of the service fee collected under
 45 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as
 46 follows:



1 (1) The clerk shall distribute one hundred percent (100%) of the
 2 service fees collected in a circuit, superior, county, or probate
 3 court to the county auditor for deposit in the county general fund.

4 (2) The clerk shall distribute one hundred percent (100%) of the
 5 service fees collected in a city or town court to the city or town
 6 fiscal officer for deposit in the city or town general fund.

7 (l) The proceeds of the garnishee service fee collected under
 8 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
 9 follows:

10 (1) The clerk shall distribute one hundred percent (100%) of the
 11 garnishee service fees collected in a circuit, superior, county, or
 12 probate court to the county auditor for deposit in the county
 13 general fund.

14 (2) The clerk shall distribute one hundred percent (100%) of the
 15 garnishee service fees collected in a city or town court to the city
 16 or town fiscal officer for deposit in the city or town general fund.

17 (m) The clerk of the circuit court shall distribute semiannually to the
 18 auditor of state for deposit in the home ownership education account
 19 established by IC 5-20-1-27 one hundred percent (100%) of the
 20 following:

21 (1) The mortgage foreclosure counseling and education fees
 22 collected under IC 33-37-5-30 (before its expiration on January
 23 1, 2013).

24 (2) Any civil penalties imposed and collected by a court for a
 25 violation of a court order in a foreclosure action under
 26 IC 32-30-10.5.

27 (n) This subsection applies to a county that is not operating under
 28 the state's automated judicial system. The clerk of a circuit court shall
 29 distribute monthly to the county auditor twenty percent (20%) of the
 30 automated record keeping fee (IC 33-37-5-21) not distributed under
 31 subsection (a) for deposit in the clerk's record perpetuation fund.

32 **(o) The clerk of a circuit court shall distribute monthly to the**
 33 **auditor of state for deposit in the probation improvement fund**
 34 **established by IC 11-13-2.5 one hundred percent (100%) of the**
 35 **following:**

36 (1) **The county offender deferral fee (IC 33-37-5-17(c)).**

37 (2) **The pretrial diversion fee for an infraction or ordinance**
 38 **violation (IC 33-37-5-31).**

39 SECTION 7. IC 33-37-7-8, AS AMENDED BY P.L.182-2009(ss),
 40 SECTION 396, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) The clerk of a city or town
 42 court shall distribute semiannually to the auditor of state as the state
 43 share for deposit in the homeowner protection unit account established
 44 by IC 4-6-12-9 one hundred percent (100%) of the automated record
 45 keeping fees collected under IC 33-37-5-21 with respect to actions
 46 resulting in the accused person entering into a pretrial diversion



1 program agreement under IC 33-39-1-8 or a deferral program
 2 agreement under IC 34-28-5-1 and for deposit in the state general fund
 3 fifty-five percent (55%) of the amount of fees collected under the
 4 following:

- 5 (1) IC 33-37-4-1(a) (criminal costs fees).
- 6 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 7 (3) IC 33-37-4-4(a) (civil costs fees).
- 8 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 9 (5) ~~IC 33-37-5-17~~ **IC 33-37-5-17(b)** (deferred prosecution fees).

10 (b) The city or town fiscal officer shall distribute monthly to the
 11 county auditor as the county share twenty percent (20%) of the amount
 12 of fees collected under the following:

- 13 (1) IC 33-37-4-1(a) (criminal costs fees).
- 14 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 15 (3) IC 33-37-4-4(a) (civil costs fees).
- 16 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 17 (5) ~~IC 33-37-5-17~~ **IC 33-37-5-17(b)** (deferred prosecution fees).

18 (c) The city or town fiscal officer shall retain twenty-five percent
 19 (25%) as the city or town share of the fees collected under the
 20 following:

- 21 (1) IC 33-37-4-1(a) (criminal costs fees).
- 22 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 23 (3) IC 33-37-4-4(a) (civil costs fees).
- 24 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 25 (5) ~~IC 33-37-5-17~~ **IC 33-37-5-17(b)** (deferred prosecution fees).

26 (d) The clerk of a city or town court shall distribute semiannually to
 27 the auditor of state for deposit in the state user fee fund established in
 28 IC 33-37-9 the following:

- 29 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 30 interdiction, and correction fees collected under
 31 IC 33-37-4-1(b)(5).
- 32 (2) Twenty-five percent (25%) of the alcohol and drug
 33 countermeasures fees collected under IC 33-37-4-1(b)(6),
 34 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 35 (3) One hundred percent (100%) of the highway work zone fees
 36 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 37 (4) One hundred percent (100%) of the safe schools fee collected
 38 under IC 33-37-5-18.
- 39 (5) One hundred percent (100%) of the automated record keeping
 40 fee (IC 33-37-5-21) not distributed under subsection (a).

41 (e) The clerk of a city or town court shall distribute monthly to the
 42 county auditor the following:

- 43 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
 44 interdiction, and ~~corrections~~ **correction** fees collected under
 45 IC 33-37-4-1(b)(5).
- 46 (2) Seventy-five percent (75%) of the alcohol and drug



1 countermeasures fees collected under IC 33-37-4-1(b)(6),
 2 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

3 The county auditor shall deposit fees distributed by a clerk under this
 4 subsection into the county drug free community fund established under
 5 IC 5-2-11.

6 (f) The clerk of a city or town court shall distribute monthly to the
 7 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
 8 percent (100%) of the following:

- 9 (1) The late payment fees collected under IC 33-37-5-22.
 10 (2) The small claims service fee collected under
 11 IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).
 12 (3) The small claims garnishee service fee collected under
 13 IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

14 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
 15 fees distributed by a clerk under this subsection in the city or town
 16 general fund.

17 (g) The clerk of a city or town court shall semiannually distribute to
 18 the auditor of state for deposit in the state general fund one hundred
 19 percent (100%) of the following:

- 20 (1) The public defense administration fee collected under
 21 IC 33-37-5-21.2.
 22 (2) The DNA sample processing fees collected under
 23 IC 33-37-5-26.2.
 24 (3) The court administration fees collected under IC 33-37-5-27.

25 (h) The clerk of a city or town court shall semiannually distribute to
 26 the auditor of state for deposit in the judicial branch insurance
 27 adjustment account established by IC 33-38-5-8.2 one hundred percent
 28 (100%) of the judicial insurance adjustment fee collected under
 29 IC 33-37-5-25.

30 (i) The clerk of a city or town court shall semiannually distribute to
 31 the auditor of state for deposit in the state general fund seventy-five
 32 percent (75%) of the judicial salaries fee collected under
 33 IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
 34 percent (25%) of the judicial salaries fee collected under
 35 IC 33-37-5-26. The funds retained by the city or town shall be
 36 prioritized to fund city or town court operations.

37 (j) **The clerk of a city or town court shall monthly distribute to**
 38 **the auditor of state for deposit in the probation improvement fund**
 39 **established by IC 11-13-2.5 one hundred percent (100%) of the**
 40 **following:**

- 41 (1) **The county offender deferral fee (IC 33-37-5-17(c)).**
 42 (2) **The pretrial diversion fee for an infraction or ordinance**
 43 **violation (IC 33-37-5-31).**





PRELIMINARY DRAFT
No. 3499

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 11-13-2.7.

Synopsis: Forensic addiction fund. Creates the forensic addiction fund to create a funding source for grants to probation departments and community corrections programs to increase substance abuse treatment access for individuals on probation or in a community corrections program. Requires the judicial conference of Indiana to administer the fund.

Effective: July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning corrections and to make an appropriation.

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

1 SECTION 1. IC 11-13-2.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]:

4 **Chapter 2.7. Forensic Addiction Fund**

5 **Sec. 1. As used in this chapter, "fund" refers to the forensic**
6 **addiction fund established by section 2 of this chapter.**

7 **Sec. 2. (a) The forensic addiction fund is established to provide**
8 **grants under section 3 of this chapter. The judicial conference of**
9 **Indiana shall administer the fund.**

10 **(b) Sources of money for the fund consist of the following:**

11 **(1) Appropriations from the general assembly.**

12 **(2) Donations, gifts, and money received from any other**
13 **source, including transfers from other funds or accounts.**

14 **(c) The expenses of administering the fund shall be paid from**
15 **money in the fund.**

16 **(d) The treasurer of state shall invest the money in the fund not**
17 **currently needed to meet the obligations of the fund in the same**
18 **manner as other public money may be invested. Interest that**
19 **accrues from these investments shall be deposited in the fund.**

20 **(e) Money in the fund at the end of a state fiscal year does not**
21 **revert to the state general fund.**

22 **(f) Money in the fund is appropriated continuously for the**
23 **purposes stated in section 3 of this chapter.**

24 **Sec. 3. (a) The judicial conference of Indiana may award a grant**
25 **from the fund to a probation department or a community**
26 **corrections program to increase substance abuse treatment access**
27 **for individuals on probation or individuals placed in a community**
28 **corrections program who are under court supervision and who**
29 **have been diagnosed with a substance abuse disorder or**
30 **co-occurring disorder.**

31 **(b) To receive a grant under this section, a probation**



1 department or community corrections program and the agency
2 that will be providing treatment if the grant is approved must
3 submit an application to the judicial conference of Indiana:

4 (1) on a form; and
5 (2) in the manner;
6 prescribed by the judicial conference of Indiana.

7 (c) The judicial conference of Indiana shall determine the
8 amount of a grant awarded under this section in consultation with
9 the division of mental health and addiction and the local probation
10 department or community corrections program.

11 (d) Mental health and substance abuse counseling provided by
12 grants under this section must be contracted for with a certified
13 mental health or addiction provider as determined by the division
14 of mental health and addiction.

15 Sec. 4. The judicial conference of Indiana may adopt rules
16 necessary to implement this section.





PRELIMINARY DRAFT
No. 3488

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 11-10-13-5; IC 35-38-3-3.

Synopsis: Class D felony sentencing and incarceration costs. Provides that the minimum daily rate the department of correction shall pay a county for incarcerating an offender in a county jail is \$35. Provides that a person convicted of a Class D felony may not be committed to the department of correction unless the person's entire period of incarceration is at least six months at the time of sentencing.

Effective: July 1, 2012.

Withdrawn



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

1 SECTION 1. IC 11-10-13-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The department
3 may use the semiannual incarceration cost analysis of a county sheriff
4 under IC 36-2-13-5 as the daily cost of incarcerating an offender in that
5 county jail.

6 (b) **The daily rate the department must pay a county for**
7 **incarcerating an offender in a county jail is at least thirty-five**
8 **dollars (\$35).**

9 SECTION 2. IC 35-38-3-3 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Except as
11 provided by subsection (b), a person convicted of a misdemeanor may
12 not be committed to the department of correction.

13 (b) Upon a request from the sheriff, the commissioner may agree to
14 accept custody of a misdemeanorant:

15 (1) if placement in the county jail:

16 (A) places the inmate in danger of serious bodily injury or
17 death; or

18 (B) represents a substantial threat to the safety of others;

19 (2) for other good cause shown; or

20 (3) if a person has more than five hundred forty-seven (547) days
21 remaining before the person's earliest release date as a result of
22 consecutive misdemeanor sentences.

23 (c) **Except as provided in subsection (d) and IC 35-33-11-1, a**
24 **person convicted of a Class D felony may not be committed to the**
25 **department of correction unless, as of the date of sentencing and**
26 **assuming the application of Class I credit time to the person's**
27 **entire period of incarceration, the offender will serve at least six (6)**
28 **months in the department.**

29 (d) Upon a request from the sheriff or a court, the commissioner
30 may agree to accept a person convicted of a Class D felony:

31 (1) if placement in the county jail:



- 1 **(A) places the inmate in danger of serious bodily injury or**
- 2 **death; or**
- 3 **(B) represents a substantial threat to the safety of others;**
- 4 **(2) for other good cause shown; or**
- 5 **(3) if the person has become ineligible for participation in a:**
- 6 **(A) community correction program; or**
- 7 **(B) problem solving court program;**
- 8 **as a result of a violation of program requirements.**





PRELIMINARY DRAFT
No. 3201

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 11-13-1-8; IC 35-38-2-3.

Synopsis: Probation sanctions. Requires the judicial conference to adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation. Provides procedures for a person on probation to be sanctioned by a probation officer.

Effective: July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

1 SECTION 1. IC 11-13-1-8, AS AMENDED BY P.L.1-2007,
2 SECTION 102, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) As used in this section,
4 "board" refers to the board of directors of the judicial conference of
5 Indiana established by IC 33-38-9-3.

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

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

10 (2) compensation of probation officers;

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

13 (4) presentence investigation reports;

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

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

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

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

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

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



1 (2) the development and use of workload information.
2 The staff of the Indiana judicial center may include a probation case
3 management coordinator and probation case management assistant.

4 (f) The conference shall, in cooperation with the department of child
5 services and the department of education, provide probation
6 departments with training and technical assistance relating to special
7 education services and programs that may be available for delinquent
8 children or children in need of services. The subjects addressed by the
9 training and technical assistance must include the following:

10 (1) Eligibility standards.

11 (2) Testing requirements and procedures.

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

15 (4) Procedures and requirements for placement in residential
16 special education institutions or facilities under IC 20-35-6-2 and
17 511 IAC 7-27-12.

18 (5) Development and implementation of individual education
19 programs for eligible children in:

20 (A) accordance with applicable requirements of state and
21 federal laws and rules; and

22 (B) coordination with:

23 (i) individual case plans; and

24 (ii) informal adjustment programs or dispositional decrees
25 entered by courts having juvenile jurisdiction under
26 IC 31-34 and IC 31-37.

27 (6) Sources of federal, state, and local funding that is or may be
28 available to support special education programs for children for
29 whom proceedings have been initiated under IC 31-34 and
30 IC 31-37.

31 Training for probation departments may be provided jointly with
32 training provided to child welfare caseworkers relating to the same
33 subject matter.

34 (g) The conference shall, in cooperation with the division of mental
35 health and addiction (IC 12-21) and the division of disability and
36 rehabilitative services (IC 12-9-1), provide probation departments with
37 training and technical assistance concerning mental illness, addictive
38 disorders, mental retardation, and developmental disabilities.

39 (h) The conference shall make recommendations to courts and
40 probation departments concerning:

41 (1) selection, training, distribution, and removal of probation
42 officers;

43 (2) methods and procedure for the administration of probation,
44 including investigation, supervision, workloads, record keeping,
45 and reporting; and

46 (3) use of citizen volunteers and public and private agencies.



1 (i) The conference may delegate any of the functions described in
2 this section to the advisory committee or the Indiana judicial center.

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

7 (1) the person has violated a condition of probation during the
8 probationary period; and

9 (2) the petition to revoke probation is filed during the
10 probationary period or before the earlier of the following:

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

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

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

16 (1) order a summons to be issued to the person to appear; or

17 (2) order a warrant for the person's arrest if there is a risk of the
18 person's fleeing the jurisdiction or causing harm to others.

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

21 (d) **Except as provided in subsection (e), the court shall conduct**
22 **a hearing concerning the alleged violation. The court may admit the**
23 **person to bail pending the hearing. A person who is not admitted to**
24 **bail pending the hearing may not be held in jail for more than**
25 **fifteen (15) days without a hearing on the alleged violation of**
26 **probation.**

27 (e) **A person may admit to a violation of probation and waive**
28 **the right to a probation violation hearing after being offered the**
29 **opportunity to consult with an attorney. If the person admits to a**
30 **violation and requests to waive the probation violation hearing, the**
31 **probation officer shall advise the person that by waiving the right**
32 **to a probation violation hearing the person forfeits the rights**
33 **provided in subsection (f). The sanction administered shall follow**
34 **the schedule of progressive probation violation sanctions adopted**
35 **by the judicial conference of Indiana under IC 11-13-1-8.**

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

40 (g) **Probation may not be revoked for failure to comply with**
41 **conditions of a sentence that imposes financial obligations on the**
42 **person unless the person recklessly, knowingly, or intentionally fails to**
43 **pay.**

44 (h) **If the court finds that the person has violated a condition at**
45 **any time before termination of the period, and the petition to revoke is**
46 **filed within the probationary period, the court may impose one (1) or**



1 more of the following sanctions:
 2 (1) Continue the person on probation, with or without modifying
 3 or enlarging the conditions.
 4 (2) Extend the person's probationary period for not more than one
 5 (1) year beyond the original probationary period.
 6 (3) Order execution of all or part of the sentence that was
 7 suspended at the time of initial sentencing.
 8 ~~(h)~~ **(i)** If the court finds that the person has violated a condition of
 9 home detention at any time before termination of the period, and the
 10 petition to revoke probation is filed within the probationary period, the
 11 court shall:
 12 (1) order one (1) or more sanctions as set forth in subsection ~~(g)~~;
 13 **(h)**; and
 14 (2) provide credit for time served as set forth under
 15 IC 35-38-2.5-5.
 16 ~~(i)~~ **(j)** If the court finds that the person has violated a condition
 17 during any time before the termination of the period, and the petition
 18 is filed under subsection (a) after the probationary period has expired,
 19 the court may:
 20 (1) reinstate the person's probationary period, with or without
 21 enlarging the conditions, if the sum of the length of the original
 22 probationary period and the reinstated probationary period does
 23 not exceed the length of the maximum sentence allowable for the
 24 offense that is the basis of the probation; or
 25 (2) order execution of all or part of the sentence that was
 26 suspended at the time of the initial sentencing.
 27 ~~(j)~~ **(k)** If the court finds that the person has violated a condition of
 28 home detention during any time before termination of the period, and
 29 the petition is filed under subsection (a) after the probation period has
 30 expired, the court shall:
 31 (1) order a sanction as set forth in subsection ~~(i)~~; **(j)**; and
 32 (2) provide credit for time served as set forth under
 33 IC 35-38-2.5-5.
 34 ~~(k)~~ **(l)** A judgment revoking probation is a final appealable order.
 35 ~~(l)~~ **(m)** Failure to pay fines or costs (including fees) required as a
 36 condition of probation may not be the sole basis for commitment to the
 37 department of correction.
 38 ~~(m)~~ **(n)** Failure to pay fees or costs assessed against a person under
 39 IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for
 40 revocation of probation.





**PRELIMINARY DRAFT
No. 3501**

**PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY**

DIGEST

Citations Affected: IC 35-38-1-7.8.

Synopsis: Credit restricted felons. Requires a sentencing court to inform the department of correction if the person sentenced is a credit restricted felon, and makes a person who commits additional offenses a credit restricted felon. Requires a court that determines that a person sentenced is a credit restricted felon to state in the sentencing order and the abstract of judgment that the person is a credit restricted felon.

Effective: July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

1 SECTION 1. IC 35-38-1-7.8 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 7.8. (a) At the time of sentencing, a court shall
4 determine whether a person is a credit restricted felon (as defined
5 in IC 35-41-1-5.5).**
6 **(b) A determination under subsection (a) must be based upon:**
7 **(1) evidence introduced at trial; or**
8 **(2) a factual basis provided as part of a guilty plea.**
9 **(c) Upon determining that a defendant is a credit restricted
10 felon, a court shall advise the defendant of the consequences of this
11 determination.**
12 **(d) A judge shall record a determination that a defendant is a
13 credit restricted felon on a form prepared by the division of state
14 court administration.**
15 **(e) If a court determines that a person is a credit restricted
16 felon, the court shall state in the person's sentencing order and
17 abstract of judgment that the person is a credit restricted felon.**



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PRELIMINARY DRAFT
No. 3434

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 11-8-7-2; IC 11-13-3-3; IC 35-38-1-31.

Synopsis: Victim rights. Requires the department of correction (department) to: (1) establish an automated victim notification system; and (2) notify a registered crime victim of certain changes affecting the committed offender who committed the crime against the victim. Specifies when the department shall make certain victim notifications. Provides that if a court imposes a felony sentence that involves a commitment to the department, the court shall state in the sentencing order and abstract of judgment certain information.

Effective: July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

1 SECTION 1. IC 11-8-7-2, AS ADDED BY P.L.64-2005, SECTION
2 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2012]: Sec. 2. (a) The department ~~may~~ **shall** establish an automated
4 victim notification system that must do the following:

5 (1) Automatically notify a registered crime victim when a
6 committed offender who committed the crime against the victim:

7 (A) is assigned to a:

8 (i) department facility; or

9 (ii) county jail or any other facility not operated by the
10 department;

11 (B) is transferred to a:

12 (i) department facility; or

13 (ii) county jail or any other facility not operated by the
14 department;

15 (C) is given a different security classification;

16 (D) is released on temporary leave;

17 (E) is discharged; or

18 (F) has escaped;

19 **(G) has a change in the committed offender's expected date
20 of release from incarceration;**

21 **(H) is scheduled to have a parole release hearing;**

22 **(I) has requested clemency or pardon consideration;**

23 **(J) is to be placed in a minimum security:**

24 **(i) facility; or**

25 **(ii) work release program;**

26 **or is permitted to participate in another minimum security
27 assignment; or**

28 **(K) dies during the committed offender's period of
29 incarceration.**

30 (2) Allow a registered crime victim to receive the most recent
31 status report for an offender by calling the automated victim



1 notification system on a toll free telephone number.

2 (3) Allow a crime victim to register or update the victim's
3 registration for the automated victim notification system by
4 calling a toll free telephone number.

5 (b) For purposes of subsection (a), ~~if the department establishes an~~
6 ~~automated victim notification system~~; a sheriff responsible for the
7 operation of a county jail shall immediately notify the department if a
8 committed offender:

9 (1) is transferred to another county jail or another facility not
10 operated by the department of correction;

11 (2) is released on temporary leave;

12 (3) is discharged; or

13 (4) has escaped.

14 Sheriffs and other law enforcement officers and prosecuting attorneys
15 shall cooperate with the department in establishing and maintaining an
16 automated victim notification system.

17 (c) An automated victim notification system may transmit
18 information to a person by:

19 (1) telephone;

20 (2) electronic mail; or

21 (3) another method as determined by the department.

22 (d) **The department shall provide the opportunity for a**
23 **registered crime victim to receive periodic status reports**
24 **concerning the committed offender who committed the crime**
25 **against the registered crime victim, including reports stating:**

26 (1) **the committed offender's projected date of release from**
27 **imprisonment;**

28 (2) **the facility where the committed offender is imprisoned;**
29 **and**

30 (3) **the current security classification of the committed**
31 **offender.**

32 (e) **A registered crime victim may choose to receive a status**
33 **report described in subsection (d):**

34 (1) **annually;**

35 (2) **quarterly;**

36 (3) **monthly; or**

37 (4) **when triggered by an event described in subsection (a)(1).**

38 SECTION 2. IC 11-13-3-3, AS AMENDED BY P.L.105-2010,
39 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2012]: Sec. 3. (a) A person sentenced under IC 35-50 shall be
41 released on parole or discharged from the person's term of
42 imprisonment under IC 35-50 without a parole release hearing.

43 (b) A person sentenced for an offense under laws other than
44 IC 35-50 who is eligible for release on parole, or a person whose parole
45 is revoked and is eligible for reinstatement on parole under rules
46 adopted by the parole board shall, before the date of the person's parole



1 eligibility, be granted a parole release hearing to determine whether
 2 parole will be granted or denied. The hearing shall be conducted by one
 3 (1) or more of the parole board members. If one (1) or more of the
 4 members conduct the hearing on behalf of the parole board, the final
 5 decision shall be rendered by the full parole board based upon the
 6 record of the proceeding and the hearing conductor's findings. Before
 7 the hearing, the parole board shall order an investigation to include the
 8 collection and consideration of:

- 9 (1) reports regarding the person's medical, psychological,
 10 educational, vocational, employment, economic, and social
 11 condition and history;
- 12 (2) official reports of the person's history of criminality;
- 13 (3) reports of earlier parole or probation experiences;
- 14 (4) reports concerning the person's present commitment that are
 15 relevant to the parole release determination;
- 16 (5) any relevant information submitted by or on behalf of the
 17 person being considered; and
- 18 (6) such other relevant information concerning the person as may
 19 be reasonably available.

20 (c) Unless the victim has requested in writing not to be notified, the
 21 department shall notify a victim of a felony (or the next of kin of the
 22 victim if the felony resulted in the death of the victim) or any witness
 23 involved in the prosecution of an offender imprisoned for the
 24 commission of a felony when the offender is:

- 25 (1) to be discharged from imprisonment;
- 26 (2) to be released on parole under IC 35-50-6-1;
- 27 (3) to have a parole release hearing under this chapter;
- 28 (4) to have a parole violation hearing;
- 29 (5) an escaped committed offender; or
- 30 (6) to be released from departmental custody under any temporary
 31 release program administered by the department, including the
 32 following:

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

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

38 (d) The department shall make the notification required under
 39 subsection (c):

- 40 **(1) not later than twenty-four (24) hours after the escape of a**
 41 **committed offender;**
- 42 ~~(1)~~ **(2) at least forty (40) days before: a**
 43 **(A) the discharge or release of a committed offender; or**
 44 **(B) the date of a hearing occurs; concerning a committed**
 45 **offender's possible discharge or release; and**
- 46 ~~(2)~~ **(3) if the date of a committed offender's discharge or**



1 **release as referred to in subdivision (2)(A) is changed during**
 2 **the forty (40) day notification period referred to in**
 3 **subdivision (2), not later more than ~~twenty-four (24)~~ hours after**
 4 **the escape of a committed offender. ~~forty-eight (48)~~ hours after**
 5 **the change in the discharge or release date.**

6 The department shall supply the information to a victim (or a next of
 7 kin of a victim in the appropriate case) and a witness at the address
 8 supplied to the department by the victim (or next of kin) or witness. A
 9 victim (or next of kin) is responsible for supplying the department with
 10 any change of address or telephone number of the victim (or next of
 11 kin).

12 (e) The probation officer conducting the presentence investigation
 13 shall inform the victim and witness described in subsection (c), at the
 14 time of the interview with the victim or witness, of the right of the
 15 victim or witness to receive notification from the department under
 16 subsection (c). The probation department for the sentencing court shall
 17 forward the most recent list of the addresses or telephone numbers, or
 18 both, of victims to the department of correction. The probation
 19 department shall supply the department with the information required
 20 by this section as soon as possible but not later than five (5) days from
 21 the receipt of the information from the victim. A victim (or next of kin)
 22 is responsible for supplying the department with the correct address
 23 and telephone number of the victim (or next of kin).

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

30 (g) The notice required under subsection (c) must specify whether
 31 the prisoner is being discharged, is being released on parole, is being
 32 released on lifetime parole, is having a parole release hearing, is having
 33 a parole violation hearing, or has escaped. The notice must contain the
 34 following information:

- 35 (1) The name of the prisoner.
- 36 (2) The date of the offense.
- 37 (3) The date of the conviction.
- 38 (4) The felony of which the prisoner was convicted.
- 39 (5) The sentence imposed.
- 40 (6) The amount of time served.
- 41 (7) The date and location of the interview (if applicable).

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

- 45 (1) nature and circumstances of the crime for which the offender
 46 is committed;



- 1 (2) offender's prior criminal record;
2 (3) offender's conduct and attitude during the commitment; and
3 (4) offender's parole plan.
- 4 (i) The hearing prescribed by this section may be conducted in an
5 informal manner without regard to rules of evidence. In connection
6 with the hearing, however:
- 7 (1) reasonable, advance written notice, including the date, time,
8 and place of the hearing shall be provided to the person being
9 considered;
- 10 (2) the person being considered shall be given access, in accord
11 with IC 11-8-5, to records and reports considered by the parole
12 board in making its parole release decision;
- 13 (3) the person being considered may appear, speak in the person's
14 own behalf, and present documentary evidence;
- 15 (4) irrelevant, immaterial, or unduly repetitious evidence shall be
16 excluded; and
- 17 (5) a record of the proceeding, to include the results of the parole
18 board's investigation, notice of the hearing, and evidence adduced
19 at the hearing, shall be made and preserved.
- 20 (j) If parole is denied, the parole board shall give the person written
21 notice of the denial and the reasons for the denial. The parole board
22 may not parole a person if it determines that there is substantial reason
23 to believe that the person:
- 24 (1) will engage in further specified criminal activity; or
25 (2) will not conform to appropriate specified conditions of parole.
- 26 (k) If parole is denied, the parole board shall conduct another parole
27 release hearing not earlier than five (5) years after the date of the
28 hearing at which parole was denied. However, the board may conduct
29 a hearing earlier than five (5) years after denial of parole if the board:
- 30 (1) finds that special circumstances exist for the holding of a
31 hearing; and
32 (2) gives reasonable notice to the person being considered for
33 parole.
- 34 (l) The parole board may parole a person who is outside Indiana on
35 a record made by the appropriate authorities of the jurisdiction in
36 which that person is imprisoned.
- 37 (m) If the board is considering the release on parole of an offender
38 who is serving a sentence of life in prison, a determinate term of
39 imprisonment of at least ten (10) years, or an indeterminate term of
40 imprisonment with a minimum term of at least ten (10) years, in
41 addition to the investigation required under subsection (b), except as
42 provided in subsection (n), the board may order and consider a
43 community investigation, which may include an investigation and
44 report that substantially reflects the attitudes and opinions of:
- 45 (1) the community in which the crime committed by the offender
46 occurred;



- 1 (2) law enforcement officers who have jurisdiction in the
- 2 community in which the crime occurred;
- 3 (3) the victim of the crime committed by the offender, or if the
- 4 victim is deceased or incompetent for any reason, the victim's
- 5 relatives or friends; and
- 6 (4) friends or relatives of the offender.

7 If the board reconsiders for release on parole an offender who was
 8 previously released on parole and whose parole was revoked under
 9 section 10 of this chapter, the board may use a community investigation
 10 prepared for an earlier parole hearing to comply with this subsection.
 11 However, the board shall accept and consider any supplements or
 12 amendments to any previous statements from the victim or the victim's
 13 relatives or friends.

14 (n) The board shall conduct the community investigation described
 15 in subsection (m) if:

- 16 (1) the person was convicted of a crime of violence (as defined in
- 17 IC 35-50-1-2); or
- 18 (2) the person is a sex offender (as defined in IC 11-8-8-4.5).

19 (o) As used in this section, "victim" means a person who has
 20 suffered direct harm as a result of a violent crime (as defined in
 21 IC 5-2-6.1-8).

22 SECTION 3. IC 35-38-1-31 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2012]: **Sec. 31. If a court imposes on a person convicted of a**
 25 **felony a sentence that involves a commitment to the department of**
 26 **correction, the court shall state in the sentencing order and the**
 27 **abstract of judgment:**

28 (1) the minimum and maximum amount of time a person
 29 could be incarcerated considering:
 30 (A) the application of credit time under IC 35-50-6;
 31 (B) the possibility of supervision after incarceration; and
 32 (C) credit for time the person has already served in jail;

- 33 (2) each offense the person is convicted of;
- 34 (3) the sentence, including whether the sentence includes a
- 35 suspended sentence, probation, or direct commitment to
- 36 community corrections; and
- 37 (4) if probation, parole, or a community corrections
- 38 placement has been revoked, the reasons for the revocation.



- ① Conversion
- ② Conspiracy - only felonies
- ③ Aggregation



PRELIMINARY DRAFT
No. 3484

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 24-4.6-5-7; IC 28-7-5-33; IC 31-37-19-17.2; IC 32-35-2-9; IC 34-24; IC 34-30; IC 35-32-2-2; IC 35-33-1-1; IC 35-37-4-6; IC 35-43.

Synopsis: Property crimes. Authorizes a law enforcement officer to arrest a person who has committed theft, even if the theft is not committed in the officer's presence. Consolidates cemetery mischief, unlawful acts relating to caves, and computer tampering into the criminal mischief statute, and repeals the redundant statutes. Provides that a person who breaks and enters with the intent to commit theft commits burglary. Makes theft a: (1) Class A misdemeanor if the amount of property involved in the theft is less than \$750; (2) Class D felony if the amount is at least \$750 and less than \$50,000, if the item stolen was a firearm, or if the person has a prior conviction; and (3) a Class C felony if the amount of property involved is at least \$50,000. Removes provisions relating to receiving stolen property, and repeals the criminal conversion statute. Makes forgery a Class D felony, and consolidates certain provisions dealing with application fraud. Consolidates certain offenses made in connection with government contracts into the deception statute, and repeals redundant provisions. Makes the threshold for enhancing the penalty for certain frauds \$50,000. Consolidates provisions relating to interference with drug screening tests, and repeals a redundant provision. Makes inmate fraud
(Continued next page)

Effective: July 1, 2012.



Digest Continued

a Class D felony if the inmate is in pretrial status, and increases the penalty to a Class C felony if the inmate has been convicted or if the amount involved is at least \$50,000. Makes conforming amendments.



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 24-4.6-5-7, AS ADDED BY P.L.97-2011,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 7. If a vehicle owner does not:

4 (1) pay the total pump price of the motor fuel pumped and the
5 service charge in response to a notice sent by a retailer under this
6 chapter; or

7 (2) reply to the retailer's notice with a written notice under section
8 6(b)(1) or 6(b)(2) of this chapter;

9 the vehicle owner's civil liability under this chapter does not preclude
10 criminal liability under IC 35-43-4-2, IC 35-43-4-3 (**before its repeal**),
11 IC 35-43-4-8, or any other law.

12 SECTION 2. IC 28-7-5-33 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 33. A pawnbroker has
14 a first lien on all pledges for the amount of ~~his~~ **the pawnbroker's** loan,
15 interest, and charges except:

16 (1) when the property that constitutes the pledge is stolen
17 (IC 35-43-4-2) or **criminally** converted (IC 35-43-4-3) (**before its**
18 **repeal**) property; or

19 (2) where a prior lien exists under another statute.

20 SECTION 3. IC 31-37-19-17.2 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17.2. (a) This section
22 applies if a child is a delinquent child under IC 31-37-1 due to the
23 commission of a delinquent act that, if committed by an adult, would
24 be a theft or criminal conversion (**before its repeal**) described in
25 IC 35-43-4-8 (fuel theft).

26 (b) The juvenile court shall, in addition to any other order or decree
27 the court makes under this chapter, order the bureau of motor vehicles
28 to:

29 (1) suspend the child's operator's license; or

30 (2) invalidate the child's learner's permit;

31 under IC 9-25-6-21 in the same manner as the bureau of motor vehicles



1 is required to suspend the driving privileges of a person convicted of
2 fuel theft.

3 SECTION 4. IC 32-35-2-9 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. The court may issue
5 an order for possession under this chapter before the hearing if
6 probable cause appears that any of the following subdivisions apply:

7 (1) The defendant gained possession of the property by theft or
8 criminal conversion (**before its repeal**).

9 (2) The property consists of one (1) or more negotiable
10 instruments or credit cards.

11 * (3) By reason of specific, competent evidence shown by testimony
12 within the personal knowledge of an affiant or witness, the
13 property is:

14 (A) perishable, and will perish before any noticed hearing can
15 be had;

16 (B) in immediate danger of destruction, serious harm,
17 concealment, removal from Indiana, or sale to an innocent
18 purchaser; or

19 (C) held by a person who threatens to destroy, harm, or
20 conceal the property, remove the property from Indiana, or sell
21 the property to an innocent purchaser.

22 SECTION 5. IC 34-24-1-1, AS AMENDED BY P.L.182-2011,
23 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2012]: Sec. 1. (a) The following may be seized:

25 (1) All vehicles (as defined by IC 35-41-1), if they are used or are
26 intended for use by the person or persons in possession of them to
27 transport or in any manner to facilitate the transportation of the
28 following:

29 (A) A controlled substance for the purpose of committing,
30 attempting to commit, or conspiring to commit any of the
31 following:

32 (i) Dealing in or manufacturing cocaine or a narcotic drug
33 (IC 35-48-4-1).

34 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).

35 * (iii) Dealing in a schedule I, II, or III controlled substance
36 (IC 35-48-4-2).

37 (iv) Dealing in a schedule IV controlled substance
38 (IC 35-48-4-3).

39 (v) Dealing in a schedule V controlled substance
40 (IC 35-48-4-4).

41 (vi) Dealing in a counterfeit substance (IC 35-48-4-5).

42 (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

43 (viii) Possession of methamphetamine (IC 35-48-4-6.1).

44 (ix) Dealing in paraphernalia (IC 35-48-4-8.5).

45 (x) Dealing in marijuana, hash oil, hashish, salvia, or a
46 synthetic cannabinoid (IC 35-48-4-10).



- 1 (B) Any stolen (IC 35-43-4-2) or converted property
 2 (IC 35-43-4-3) **(before its repeal)** if the retail or repurchase
 3 value of that property is one hundred dollars (\$100) or more.
 4 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
 5 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass
 6 destruction (as defined in IC 35-41-1-29.4) used to commit,
 7 used in an attempt to commit, or used in a conspiracy to
 8 commit an offense under IC 35-47 as part of or in furtherance
 9 of an act of terrorism (as defined by IC 35-41-1-26.5).
- 10 (2) All money, negotiable instruments, securities, weapons,
 11 communications devices, or any property used to commit, used in
 12 an attempt to commit, or used in a conspiracy to commit an
 13 offense under IC 35-47 as part of or in furtherance of an act of
 14 terrorism or commonly used as consideration for a violation of
 15 IC 35-48-4 (other than items subject to forfeiture under
 16 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
 17 (A) furnished or intended to be furnished by any person in
 18 exchange for an act that is in violation of a criminal statute;
 19 (B) used to facilitate any violation of a criminal statute; or
 20 (C) traceable as proceeds of the violation of a criminal statute.
- 21 (3) Any portion of real or personal property purchased with
 22 money that is traceable as a proceed of a violation of a criminal
 23 statute.
- 24 (4) A vehicle that is used by a person to:
 25 (A) commit, attempt to commit, or conspire to commit;
 26 (B) facilitate the commission of; or
 27 (C) escape from the commission of;
 28 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 29 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 30 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 31 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 32 (5) Real property owned by a person who uses it to commit any of
 33 the following as a Class A felony, a Class B felony, or a Class C
 34 felony:
 35 (A) Dealing in or manufacturing cocaine or a narcotic drug
 36 (IC 35-48-4-1).
 37 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
 38 (C) Dealing in a schedule I, II, or III controlled substance
 39 (IC 35-48-4-2).
 40 (D) Dealing in a schedule IV controlled substance
 41 (IC 35-48-4-3).
 42 (E) Dealing in marijuana, hash oil, hashish, salvia, or a
 43 synthetic cannabinoid (IC 35-48-4-10).
- 44 (6) Equipment and recordings used by a person to commit fraud
 45 under IC 35-43-5-4(10).
 46 (7) Recordings sold, rented, transported, or possessed by a person



- 1 in violation of IC 24-4-10.
- 2 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
3 defined by IC 35-45-6-1) that is the object of a corrupt business
4 influence violation (IC 35-45-6-2).
- 5 (9) Unlawful telecommunications devices (as defined in
6 IC 35-45-13-6) and plans, instructions, or publications used to
7 commit an offense under IC 35-45-13.
- 8 (10) Any equipment, including computer equipment and cellular
9 telephones, used for or intended for use in preparing,
10 photographing, recording, videotaping, digitizing, printing,
11 copying, or disseminating matter in violation of IC 35-42-4.
- 12 (11) Destructive devices used, possessed, transported, or sold in
13 violation of IC 35-47.5.
- 14 (12) Tobacco products that are sold in violation of IC 24-3-5,
15 tobacco products that a person attempts to sell in violation of
16 IC 24-3-5, and other personal property owned and used by a
17 person to facilitate a violation of IC 24-3-5.
- 18 (13) Property used by a person to commit counterfeiting or
19 forgery in violation of IC 35-43-5-2.
- 20 X (14) After December 31, 2005, if a person is convicted of an
21 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
22 following real or personal property:
- 23 (A) Property used or intended to be used to commit, facilitate,
24 or promote the commission of the offense.
- 25 (B) Property constituting, derived from, or traceable to the
26 gross proceeds that the person obtained directly or indirectly
27 as a result of the offense.
- 28 (15) Except as provided in subsection (e), a motor vehicle used by
29 a person who operates the motor vehicle:
- 30 (A) while intoxicated, in violation of IC 9-30-5-1 through
31 IC 9-30-5-5, if in the previous five (5) years the person has two
32 (2) or more prior unrelated convictions:
- 33 (i) for operating a motor vehicle while intoxicated in
34 violation of IC 9-30-5-1 through IC 9-30-5-5; or
35 (ii) for an offense that is substantially similar to IC 9-30-5-1
36 through IC 9-30-5-5 in another jurisdiction; or
- 37 (B) on a highway while the person's driver's license is
38 suspended in violation of IC 9-24-19-2 through IC 9-24-19-4,
39 if in the previous five (5) years the person has two (2) or more
40 prior unrelated convictions:
- 41 (i) for operating a motor vehicle while intoxicated in
42 violation of IC 9-30-5-1 through IC 9-30-5-5; or
43 (ii) for an offense that is substantially similar to IC 9-30-5-1
44 through IC 9-30-5-5 in another jurisdiction.
- 45 If a court orders the seizure of a motor vehicle under this
46 subdivision, the court shall transmit an order to the bureau of



1 motor vehicles recommending that the bureau not permit a motor
 2 vehicle to be registered in the name of the person whose motor
 3 vehicle was seized until the person possesses a current driving
 4 license (as defined in IC 9-13-2-41).

5 (16) The following real or personal property:

6 (A) Property used or intended to be used to commit, facilitate,
 7 or promote the commission of an offense specified in
 8 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or
 9 IC 30-2-13-38(f).

10 (B) Property constituting, derived from, or traceable to the
 11 gross proceeds that a person obtains directly or indirectly as a
 12 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),
 13 IC 30-2-10-9(b), or IC 30-2-13-38(f).

14 (b) A vehicle used by any person as a common or contract carrier in
 15 the transaction of business as a common or contract carrier is not
 16 subject to seizure under this section, unless it can be proven by a
 17 preponderance of the evidence that the owner of the vehicle knowingly
 18 permitted the vehicle to be used to engage in conduct that subjects it to
 19 seizure under subsection (a).

20 (c) Equipment under subsection (a)(10) may not be seized unless it
 21 can be proven by a preponderance of the evidence that the owner of the
 22 equipment knowingly permitted the equipment to be used to engage in
 23 conduct that subjects it to seizure under subsection (a)(10).

24 (d) Money, negotiable instruments, securities, weapons,
 25 communications devices, or any property commonly used as
 26 consideration for a violation of IC 35-48-4 found near or on a person
 27 who is committing, attempting to commit, or conspiring to commit any
 28 of the following offenses shall be admitted into evidence in an action
 29 under this chapter as prima facie evidence that the money, negotiable
 30 instrument, security, or other thing of value is property that has been
 31 used or was to have been used to facilitate the violation of a criminal
 32 statute or is the proceeds of the violation of a criminal statute:

33 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 34 narcotic drug).

35 (2) IC 35-48-4-1.1 (dealing in methamphetamine).

36 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 37 substance).

38 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

39 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 40 as a Class B felony.

41 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 42 Class A felony, Class B felony, or Class C felony.

43 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class
 44 A felony, Class B felony, or Class C felony.

45 (8) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, salvia,
 46 or a synthetic cannabinoid) as a Class C felony.



1 (e) A motor vehicle operated by a person who is not:

2 (1) an owner of the motor vehicle; or

3 (2) the spouse of the person who owns the motor vehicle;

4 is not subject to seizure under subsection (a)(15) unless it can be
5 proven by a preponderance of the evidence that the owner of the
6 vehicle knowingly permitted the vehicle to be used to engage in
7 conduct that subjects it to seizure under subsection (a)(15).

8 SECTION 6. IC 34-24-3-2 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) For purposes of
10 determining the amount of damages recoverable under section 1(1) of
11 this chapter, there is an irrebuttable presumption that a retailer who
12 brings a civil action under this chapter (or IC 34-4-30 before its repeal)
13 *x* as the result of a violation of IC 35-43-4-2 (theft) or IC 35-43-4-3
14 (**criminal conversion**) (**before its repeal**) suffers a pecuniary loss in
15 the amount of:

16 (1) one hundred dollars (\$100) regardless of whether:

17 (A) the property is returned to the retailer; or

18 (B) the actual retail value of the property is less than one
19 hundred dollars (\$100); or

20 (2) the retailer's actual damages;

21 whichever is greater.

22 (b) An individual found liable in a civil action under this chapter (or
23 *x* IC 34-4-30 before its repeal) for violating IC 35-43-4-2 or IC 35-43-4-3
24 (**before its repeal**) may not be indemnified or insured for any
25 penalties, damages, or settlement arising from the violation.

26 SECTION 7. IC 34-30-3-2 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The definitions
28 set forth in IC 22-11-20 apply to this section.

29 (b) Except as provided in subsection (c), the victim or an agent of
30 the victim of a theft (~~IC 35-43-4-2(a)~~ **IC 35-43-4-2**) or criminal
31 conversion (IC 35-43-4-3) (**before its repeal**) of:

32 (1) anhydrous ammonia (NH₃);

33 (2) an ammonia solution; or

34 (3) a container used to store or transport anhydrous ammonia or
35 an ammonia solution;

36 is immune from civil liability for injury or damage resulting from the
37 *x* possession or use of the anhydrous ammonia, ammonia solution, or
38 container by another person to commit a violation of IC 35-48-4.

39 (c) A victim or an agent described in subsection (b) is not immune
40 from civil liability under subsection (b) if:

41 (1) the victim or agent committed a crime involving the
42 anhydrous ammonia, ammonia solution, or container that is the
43 subject of the theft or criminal conversion; or

44 (2) the victim's or agent's willful or intentional commission of a
45 violation of an applicable law, rule, or regulation governing the:

46 (A) design;



- 1 (B) construction;
- 2 (C) location;
- 3 (D) installation; or
- 4 (E) operation;
- 5 of equipment for storage, handling, use, or transportation of
- 6 anhydrous ammonia or ammonia solution proximately caused the
- 7 theft or criminal conversion.

8 SECTION 8. IC 34-30-20-1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. A person is immune
 10 from civil liability based on an act or omission related to the use of a
 11 firearm or ammunition for a firearm by another person if the other
 12 person directly or indirectly obtained the firearm or ammunition for a
 13 firearm through the commission of the following:

- 14 (1) Burglary (IC 35-43-2-1).
- 15 (2) Robbery (IC 35-42-5-1).
- 16 (3) Theft (IC 35-43-4-2).
- 17 (4) Receiving stolen property (IC 35-43-4-2).
- 18 (5) Criminal conversion (IC 35-43-4-3) **(before its repeal)**.

19 SECTION 9. IC 35-32-2-2 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) A person may be
 21 tried for theft or conversion **(for an act committed before its repeal)**
 22 in any county in which ~~he~~ **the person** exerted unauthorized control
 23 over the property.

24 (b) A person may be tried for receiving stolen property **(for an act**
 25 **committed before its repeal)** in any county in which ~~he~~ **the person**
 26 receives, retains, or disposes of the property.

27 SECTION 10. IC 35-33-1-1, AS AMENDED BY P.L.171-2011,
 28 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2012]: Sec. 1. (a) A law enforcement officer may arrest a
 30 person when the officer has:

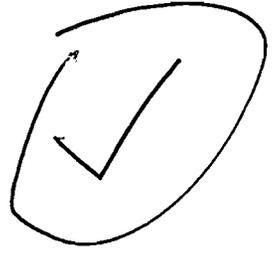
- 31 (1) a warrant commanding that the person be arrested;
- 32 (2) probable cause to believe the person has committed or
- 33 attempted to commit, or is committing or attempting to commit,
- 34 **theft or a felony;**
- 35 (3) probable cause to believe the person has violated the
- 36 provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1),
- 37 IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;
- 38 (4) probable cause to believe the person is committing or
- 39 attempting to commit a misdemeanor in the officer's presence;
- 40 (5) probable cause to believe the person has committed a:
- 41 (A) battery resulting in bodily injury under IC 35-42-2-1; or
- 42 (B) domestic battery under IC 35-42-2-1.3.

43 The officer may use an affidavit executed by an individual alleged
 44 to have direct knowledge of the incident alleging the elements of
 45 the offense of battery to establish probable cause;

46 (6) probable cause to believe that the person violated

x

x



- 1 IC 35-46-1-15.1 (invasion of privacy);
 2 (7) probable cause to believe that the person violated
 3 IC 35-47-2-1 (carrying a handgun without a license) or
 4 IC 35-47-2-22 (counterfeit handgun license);
 5 (8) probable cause to believe that the person is violating or has
 6 violated an order issued under IC 35-50-7;
 7 (9) probable cause to believe that the person is violating or has
 8 violated IC 35-47-6-1.1 (undisclosed transport of a dangerous
 9 device);
 10 (10) probable cause to believe that the person is:
 11 (A) violating or has violated IC 35-45-2-5 (interference with
 12 the reporting of a crime); and
 13 (B) interfering with or preventing the reporting of a crime
 14 involving domestic or family violence (as defined in
 15 IC 34-6-2-34.5);
 16 (11) a removal order issued for the person by an immigration
 17 court;
 18 (12) a detainer or notice of action for the person issued by the
 19 United States Department of Homeland Security; or
 20 (13) probable cause to believe that the person has been indicted
 21 for or convicted of one (1) or more aggravated felonies (as
 22 defined in 8 U.S.C. 1101(a)(43)).
 23 (b) A person who:
 24 (1) is employed full time as a federal enforcement officer;
 25 (2) is empowered to effect an arrest with or without warrant for a
 26 violation of the United States Code; and
 27 (3) is authorized to carry firearms in the performance of the
 28 person's duties;
 29 may act as an officer for the arrest of offenders against the laws of this
 30 state where the person reasonably believes that a felony has been or is
 31 about to be committed or attempted in the person's presence.
 32 SECTION 11. IC 35-37-4-6, AS AMENDED BY P.L.28-2011,
 33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2012]: Sec. 6. (a) This section applies to a criminal action
 35 involving the following offenses where the victim is a protected person
 36 under subsection (c)(1) or (c)(2):
 37 (1) Sex crimes (IC 35-42-4).
 38 (2) Battery upon a child (IC 35-42-2-1(a)(2)(B)).
 39 (3) Kidnapping and confinement (IC 35-42-3).
 40 (4) Incest (IC 35-46-1-3).
 41 (5) Neglect of a dependent (IC 35-46-1-4).
 42 (6) Human and sexual trafficking crimes (IC 35-42-3.5).
 43 (7) An attempt under IC 35-41-5-1 for an offense listed in
 44 subdivisions (1) through (6).
 45 (b) This section applies to a criminal action involving the following
 46 offenses where the victim is a protected person under subsection (c)(3):



- 1 (1) Exploitation of a dependent or endangered adult
 2 (IC 35-46-1-12).
 3 (2) A sex crime (IC 35-42-4).
 4 (3) Battery (IC 35-42-2-1).
 5 (4) Kidnapping, confinement, or interference with custody
 6 (IC 35-42-3).
 7 (5) Home improvement fraud (IC 35-43-6).
 8 (6) Fraud (IC 35-43-5).
 9 (7) Identity deception (IC 35-43-5-3.5).
 10 (8) Synthetic identity deception (IC 35-43-5-3.8).
 11 (9) Theft (IC 35-43-4-2).
 12 (10) **Criminal** conversion (IC 35-43-4-3) **(before its repeal)**.
 13 (11) Neglect of a dependent (IC 35-46-1-4).
 14 (12) Human and sexual trafficking crimes (IC 35-42-3.5).
 15 (c) As used in this section, "protected person" means:
 16 (1) a child who is less than fourteen (14) years of age;
 17 (2) an individual with a mental disability who has a disability
 18 attributable to an impairment of general intellectual functioning
 19 or adaptive behavior that:
 20 (A) is manifested before the individual is eighteen (18) years
 21 of age;
 22 (B) is likely to continue indefinitely;
 23 (C) constitutes a substantial impairment of the individual's
 24 ability to function normally in society; and
 25 (D) reflects the individual's need for a combination and
 26 sequence of special, interdisciplinary, or generic care,
 27 treatment, or other services that are of lifelong or extended
 28 duration and are individually planned and coordinated; or
 29 (3) an individual who is:
 30 (A) at least eighteen (18) years of age; and
 31 (B) incapable by reason of mental illness, mental retardation,
 32 dementia, or other physical or mental incapacity of:
 33 (i) managing or directing the management of the individual's
 34 property; or
 35 (ii) providing or directing the provision of self-care.
 36 (d) A statement or videotape that:
 37 (1) is made by a person who at the time of trial is a protected
 38 person;
 39 (2) concerns an act that is a material element of an offense listed
 40 in subsection (a) or (b) that was allegedly committed against the
 41 person; and
 42 (3) is not otherwise admissible in evidence;
 43 is admissible in evidence in a criminal action for an offense listed in
 44 subsection (a) or (b) if the requirements of subsection (e) are met.
 45 (e) A statement or videotape described in subsection (d) is
 46 admissible in evidence in a criminal action listed in subsection (a) or



1 (b) if, after notice to the defendant of a hearing and of the defendant's
2 right to be present, all of the following conditions are met:

3 (1) The court finds, in a hearing:

4 (A) conducted outside the presence of the jury; and

5 (B) attended by the protected person in person or by using
6 closed circuit television testimony as described in section 8(f)

7 and 8(g) of this chapter;

8 that the time, content, and circumstances of the statement or
9 videotape provide sufficient indications of reliability.

10 (2) The protected person:

11 (A) testifies at the trial; or

12 (B) is found by the court to be unavailable as a witness for one

13 (1) of the following reasons:

14 (i) From the testimony of a psychiatrist, physician, or
15 psychologist, and other evidence, if any, the court finds that
16 the protected person's testifying in the physical presence of
17 the defendant will cause the protected person to suffer
18 serious emotional distress such that the protected person
19 cannot reasonably communicate.

20 (ii) The protected person cannot participate in the trial for
21 medical reasons.

22 (iii) The court has determined that the protected person is
23 incapable of understanding the nature and obligation of an
24 oath.

25 (f) If a protected person is unavailable to testify at the trial for a
26 reason listed in subsection (e)(2)(B), a statement or videotape may be
27 admitted in evidence under this section only if the protected person was
28 available for cross-examination:

29 (1) at the hearing described in subsection (e)(1); or

30 (2) when the statement or videotape was made.

31 (g) A statement or videotape may not be admitted in evidence under
32 this section unless the prosecuting attorney informs the defendant and
33 the defendant's attorney at least ten (10) days before the trial of:

34 (1) the prosecuting attorney's intention to introduce the statement
35 or videotape in evidence; and

36 (2) the content of the statement or videotape.

37 (h) If a statement or videotape is admitted in evidence under this
38 section, the court shall instruct the jury that it is for the jury to
39 determine the weight and credit to be given the statement or videotape
40 and that, in making that determination, the jury shall consider the
41 following:

42 (1) The mental and physical age of the person making the
43 statement or videotape.

44 (2) The nature of the statement or videotape.

45 (3) The circumstances under which the statement or videotape
46 was made.



1 (4) Other relevant factors.
2 (i) If a statement or videotape described in subsection (d) is
3 admitted into evidence under this section, a defendant may introduce
4 a:

- 5 (1) transcript; or
- 6 (2) videotape;
- 7 of the hearing held under subsection (e)(1) into evidence at trial.

8 SECTION 12. IC 35-43-1-2, AS AMENDED BY P.L.216-2007,
9 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2012]: Sec. 2. (a) Subsection (e) does not apply to the
11 following:

12 (1) A person who acts in a proper and acceptable manner as
13 authorized by IC 14-21 other than a person who disturbs the
14 earth for an agricultural purpose under the exemption to
15 IC 14-21 that is provided in IC 14-21-1-24.

16 (2) A person who acts in a proper and acceptable manner as
17 authorized by IC 23-14.

18 (b) As used in this section:

19 (1) "Cave" means any naturally occurring subterranean
20 cavity, including a cavern, pit, pothole, sinkhole, well, grotto,
21 and tunnel, whether or not it has a natural entrance.

22 (2) "Computer network" and "computer system" have the
23 meanings set forth in IC 35-43-2-3.

24 (3) "Computer program" means an ordered set of
25 instructions or statements that, when executed by a computer,
26 causes the computer to process data.

27 (4) "Data" means a representation of information, facts,
28 knowledge, concepts, or instructions that:

29 (A) may take any form, including computer printouts,
30 magnetic storage media, punched cards, or stored
31 memory;

32 (B) has been prepared or is being prepared; and

33 (C) has been processed, is being processed, or will be
34 processed;

35 in a computer system or computer network.

36 (5) "Owner" means the person who holds title to or is in
37 possession of the land on or under which a cave is located, or
38 the person's lessee or agent.

39 (6) "Scientific purposes" means exploration and research
40 conducted by persons affiliated with recognized scientific
41 organizations with the intent to advance knowledge and with
42 the intent to publish the results of the exploration or research
43 in an appropriate medium.

44 (a) (c) A person who:

45 (1) recklessly, knowingly, or intentionally damages or defaces
46 property of another person without the other person's consent; or



*adds-
cave mischief
computer program
computer mischief.*



1 (2) knowingly or intentionally causes another to suffer pecuniary
 2 loss by deception or by an expression of intention to injure
 3 another person or to damage the property or to impair the rights
 4 of another person;
 5 commits criminal mischief, a Class B misdemeanor. However, the
 6 offense is:

7 (A) a Class A misdemeanor if:

8 (i) the pecuniary loss is at least two hundred fifty dollars
 9 (\$250) but less than two thousand five hundred dollars
 10 (\$2,500);

11 (ii) the property damaged was a moving motor vehicle;

12 (iii) the property damaged contained data relating to a
 13 person required to register as a sex or violent offender under
 14 IC 11-8-8 and the person is not a sex or violent offender or
 15 was not required to register as a sex or violent offender;

16 (iv) the property damaged was a locomotive, a railroad car,
 17 a train, or equipment of a railroad company being operated
 18 on a railroad right-of-way;

19 (v) the property damaged was a part of any railroad signal
 20 system, train control system, centralized dispatching system,
 21 or highway railroad grade crossing warning signal on a
 22 railroad right-of-way owned, leased, or operated by a
 23 railroad company;

24 (vi) the property damaged was any rail, switch, roadbed,
 25 viaduct, bridge, trestle, culvert, or embankment on a
 26 right-of-way owned, leased, or operated by a railroad
 27 company; or

28 (vii) the property damage or defacement was caused by paint
 29 or other markings; and

30 (B) a Class D felony if:

31 (i) the pecuniary loss is at least two thousand five hundred
 32 dollars (\$2,500);

33 (ii) the damage causes a substantial interruption or
 34 impairment of utility service rendered to the public;

35 (iii) the damage is to a public record;

36 (iv) the property damaged contained data relating to a
 37 person required to register as a sex or violent offender under
 38 IC 11-8-8 and the person is a sex or violent offender or was
 39 required to register as a sex or violent offender;

40 (v) the damage causes substantial interruption or impairment
 41 of work conducted in a scientific research facility;

42 (vi) the damage is to a law enforcement animal (as defined
 43 in IC 35-46-3-4.5); or

44 (vii) the damage causes substantial interruption or
 45 impairment of work conducted in a food processing facility.

46 (b) (d) A person who recklessly, knowingly, or intentionally



- 1 damages:
- 2 (1) a structure used for religious worship;
- 3 (2) a school or community center;
- 4 (3) the grounds:
- 5 (A) adjacent to; and
- 6 (B) owned or rented in common with;
- 7 a structure or facility identified in subdivision (1) or (2); or
- 8 (4) personal property contained in a structure or located at a
- 9 facility identified in subdivision (1) or (2);
- 10 without the consent of the owner, possessor, or occupant of the
- 11 property that is damaged, commits institutional criminal mischief, a
- 12 Class A misdemeanor. However, the offense is a Class D felony if the
- 13 pecuniary loss is at least two hundred fifty dollars (\$250) but less than
- 14 two thousand five hundred dollars (\$2,500), and a Class C felony if the
- 15 pecuniary loss is at least two thousand five hundred dollars (\$2,500).
- 16 **(e) A person who recklessly, knowingly, or intentionally:**
- 17 **(1) damages a cemetery, a burial ground (as defined in**
- 18 **IC 14-21-1-3), or a facility used for memorializing the dead;**
- 19 **(2) damages the grounds owned or rented by a cemetery or**
- 20 **facility used for memorializing the dead; or**
- 21 **(3) disturbs, defaces, or damages a cemetery monument, grave**
- 22 **marker, grave artifact, grave ornamentation, or cemetery**
- 23 **enclosure;**
- 24 **commits cemetery mischief, a Class A misdemeanor. However, the**
- 25 **offense is a Class D felony if the pecuniary loss is at least two**
- 26 **thousand five hundred dollars (\$2,500).**
- 27 **(f) A person who knowingly and without the express consent of**
- 28 **the cave owner:**
- 29 **(1) disfigures, destroys, or removes any stalagmite, stalactite,**
- 30 **or other naturally occurring mineral deposit or formation, or**
- 31 **archeological or paleontological artifact in a cave, for other**
- 32 **than scientific purposes;**
- 33 **(2) breaks any lock, gate, fence, or other structure designed to**
- 34 **control or prevent access to a cave;**
- 35 **(3) deposits trash, rubbish, chemicals, or other litter in a cave;**
- 36 **or**
- 37 **(4) destroys, injures, removes, or harasses any cave-dwelling**
- 38 **animal for other than scientific purposes;**
- 39 **commits cave mischief, a Class A misdemeanor.**
- 40 **(g) A person who knowingly or intentionally alters or damages**
- 41 **a computer program or data that comprises a part of a computer**
- 42 **system or computer network without the consent of the owner of**
- 43 **the computer system or computer network commits computer**
- 44 **tampering, a Class D felony. However, the offense is a:**
- 45 **(1) Class C felony if the offense is committed for the purpose**
- 46 **of terrorism; and**



(2) Class B felony if the offense is committed for the purpose of terrorism and results in serious bodily injury to a person.

~~(c)~~ **(h)** If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

~~(d)~~ **(i)** The court may rescind an order for suspension or invalidation under subsection ~~(c)~~ **(h)** and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

(1) the person has removed or painted over the graffiti or has made other suitable restitution; and

(2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 13. IC 35-43-1-2.1 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 2.1: (a) This section does not apply to the following:

(1) A person who acts in a proper and acceptable manner as authorized by IC 14-21 other than a person who disturbs the earth for an agricultural purpose under the exemption to IC 14-21 that is provided in IC 14-21-1-24.

(2) A person who acts in a proper and acceptable manner as authorized by IC 23-14.

(b) A person who recklessly, knowingly, or intentionally:

(1) damages a cemetery, a burial ground (as defined in IC 14-21-1-3); or a facility used for memorializing the dead;

(2) damages the grounds owned or rented by a cemetery or facility used for memorializing the dead; or

(3) disturbs, defaces, or damages a cemetery monument, grave marker, grave artifact, grave ornamentation, or cemetery enclosure;

commits cemetery mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

SECTION 14. IC 35-43-1-3 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 3: (a) As used in this section:

"Cave" means any naturally occurring subterranean cavity, including a cavern, pit, pothole, sinkhole, well, grotto, and tunnel whether or not it has a natural entrance.

"Owner" means the person who holds title to or is in possession of the land on or under which a cave is located; or his lessee, or agent.

"Scientific purposes" means exploration and research conducted by persons affiliated with recognized scientific organizations with the intent to advance knowledge and with the intent to publish the results

U

repeal
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Cave



1 of said exploration or research in an appropriate medium:

2 (b) A person who knowingly and without the express consent of the
3 cave owner:

- 4 (1) disfigures, destroys, or removes any stalagmite, stalactite, or
5 other naturally occurring mineral deposit or formation; or
6 archeological or paleontological artifact in a cave; for other than
7 scientific purposes;
- 8 (2) breaks any lock, gate, fence, or other structure designed to
9 control or prevent access to a cave;
- 10 (3) deposits trash, rubbish, chemicals, or other litter in a cave; or
- 11 (4) destroys, injures, removes, or harasses any cave-dwelling
12 animal for other than scientific purposes;

13 commits a Class A misdemeanor:

14 SECTION 15. IC 35-43-1-4 IS REPEALED [EFFECTIVE JULY 1,
15 2012]. Sec. 4: (a) As used in this section:

16 "Computer network" and "computer system" have the meanings set
17 forth in IC 35-43-2-3.

18 "Computer program" means an ordered set of instructions or
19 statements that, when executed by a computer, causes the computer to
20 process data:

21 "Data" means a representation of information, facts, knowledge,
22 concepts, or instructions that:

- 23 (1) may take any form, including computer printouts, magnetic
24 storage media, punched cards, or stored memory;
- 25 (2) has been prepared or is being prepared; and
- 26 (3) has been processed, is being processed, or will be processed;

27 in a computer system or computer network:

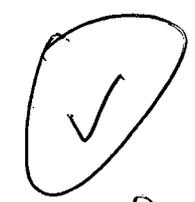
28 (b) A person who knowingly or intentionally alters or damages a
29 computer program or data, which comprises a part of a computer
30 system or computer network without the consent of the owner of the
31 computer system or computer network commits computer tampering;
32 a Class D felony. However, the offense is a:

- 33 (1) Class C felony if the offense is committed for the purpose of
34 terrorism; and
- 35 (2) Class B felony if the offense is committed for the purpose of
36 terrorism and results in serious bodily injury to a person:

37 SECTION 16. IC 35-43-2-1 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. A person who breaks
39 and enters the building or structure of another person, with intent to
40 commit theft or a felony in it, the building or structure, commits
41 burglary, a Class C felony. However, the offense is:

- 42 (1) a Class B felony if:
43 (A) it is committed while armed with a deadly weapon; or
44 (B) the building or structure is a:
45 (i) dwelling; or
46 (ii) structure used for religious worship; and

computer



Burglary



- 1 (2) a Class A felony if it results in:
- 2 (A) bodily injury; or
- 3 (B) serious bodily injury;
- 4 to any person other than a defendant.

5 SECTION 17. IC 35-43-4-2, AS AMENDED BY P.L.158-2009,
 6 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2012]: Sec. 2. (a) A person who knowingly or intentionally
 8 exerts unauthorized control over property of another person, with intent
 9 to deprive the other person of any part of its value or use, commits
 10 theft, a ~~Class D felony~~: **Class A misdemeanor**. However, the offense
 11 is a **Class D felony if the fair market value of the property is at**
 12 **least seven hundred fifty dollars (\$750), if the item stolen was a**
 13 **firearm, or if the person has a prior unrelated conviction for**
 14 **~~conversion or theft~~, and a Class C felony if:**

- 15 (1) the fair market value of the property is at least ~~one hundred~~
 16 **fifty thousand dollars (\$100,000); (\$50,000); or**
- 17 (2) the property that is the subject of the theft is a valuable metal
 18 (as defined in IC 25-37.5-1-1) and:
- 19 (A) relates to transportation safety;
- 20 (B) relates to public safety; or
- 21 (C) is taken from a:
- 22 (i) hospital or other health care facility;
- 23 (ii) telecommunications provider;
- 24 (iii) public utility (as defined in IC 32-24-1-5.9(a)); or
- 25 (iv) key facility;
- 26 and the absence of the property creates a substantial risk of bodily
 27 injury to a person.

28 (b) A person who knowingly or intentionally receives; retains; or
 29 disposes of the property of another person that has been the subject of
 30 the theft commits receiving stolen property, a ~~Class D felony~~: However, the
 31 offense is a **Class E felony if:**

- 32 (1) the fair market value of the property is at least one hundred
 33 thousand dollars (\$100,000); or
- 34 (2) the property that is the subject of the theft is a valuable metal
 35 (as defined in IC 25-37.5-1-1) and:
- 36 (A) relates to transportation safety;
- 37 (B) relates to public safety; or
- 38 (C) is taken from a:
- 39 (i) hospital or other health care facility;
- 40 (ii) telecommunications provider;
- 41 (iii) public utility (as defined in IC 32-24-1-5.9(a)); or
- 42 (iv) key facility;

43 and the absence of the property creates a substantial risk of bodily
 44 injury to a person.

45 SECTION 18. IC 35-43-4-2.5 IS REPEALED [EFFECTIVE
 46 JULY 1, 2012]. Sec. 2.5: (a) As used in this section, "motor vehicle"

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1 has the meaning set forth in IC 9-13-2-105(a):

2 (b) A person who knowingly or intentionally exerts unauthorized
3 control over the motor vehicle of another person; with intent to deprive
4 the owner of:

5 (1) the vehicle's value or use; or

6 (2) a component part (as defined in IC 9-13-2-34) of the vehicle;
7 commits auto theft; a Class D felony. However, the offense is a Class
8 E felony if the person has a prior conviction of an offense under this
9 subsection or subsection (c):

10 (c) A person who knowingly or intentionally receives, retains, or
11 disposes of a motor vehicle or any part of a motor vehicle of another
12 person that has been the subject of theft commits receiving stolen auto
13 parts; a Class D felony. However, the offense is a Class E felony if the
14 person has a prior conviction of an offense under this subsection or
15 subsection (b):

16 SECTION 19. IC 35-43-4-3 IS REPEALED [EFFECTIVE JULY 1,
17 2012]. Sec. 3: (a) A person who knowingly or intentionally exerts
18 unauthorized control over property of another person commits criminal
19 conversion; a Class A misdemeanor:

20 (b) The offense under subsection (a) is a Class D felony if
21 committed by a person who exerts unauthorized control over the motor
22 vehicle of another person with the intent to use the motor vehicle to
23 assist the person in the commission of a crime:

24 (c) The offense under subsection (a) is a Class E felony if:

25 (1) committed by a person who exerts unauthorized control over
26 the motor vehicle of another person; and

27 (2) the person uses the motor vehicle to assist the person in the
28 commission of a felony:

29 (d) The offense under subsection (a) is a Class D felony if:

30 (1) the person acquires the property by lease;

31 (2) the property is a motor vehicle;

32 (3) the person signs a written agreement to return the property to
33 a specified location within a specified time; and

34 (4) the person fails to return the property:

35 (A) within thirty (30) days after the specified time; or

36 (B) within three (3) days after a written demand for return of
37 the property is either:

38 (i) personally served on the person; or

39 (ii) sent by registered mail to the person's address that is
40 provided by the person in the written agreement.

41 SECTION 20. IC 35-43-4-8 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) A conviction for
43 an offense under section 2 of this chapter or section 3 of this chapter
44 (before its repeal) that involves exerting unauthorized control over
45 gasoline or motor vehicle fuel:

46 (1) by operation of a motor vehicle to leave the premises of an

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1 establishment at which gasoline or motor vehicle fuel is offered
2 for sale after the gasoline or motor vehicle fuel has been
3 dispensed into the fuel tank of the motor vehicle; and

4 (2) without payment or authorization of payment by a credit card,
5 debit card, charge card, or similar method of payment;
6 shall result in the suspension of the driving privileges of the person.

7 (b) The court imposing a sentence for a violation under subsection
8 (a) shall issue an order to the bureau of motor vehicles:

9 (1) stating that the person has been convicted of an offense under
10 section 2 of this chapter or section 3 of this chapter (**before its**
11 **repeal**) involving the unauthorized taking of gasoline or motor
12 vehicle fuel; and

13 (2) ordering the suspension of the person's driving privileges
14 under IC 9-25-6-21.

15 The suspension of a person's driving privileges under this section is in
16 addition to other penalties prescribed by ~~IC 35-50-3-2 for a Class A~~
17 ~~misdemeanor or by IC 35-50-2-7 for a Class D felony.~~ **IC 35-50.**

18 SECTION 21. IC 35-43-5-2, AS AMENDED BY P.L.106-2006,
19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2012]: Sec. 2. (a) A person who knowingly or intentionally:

21 (1) makes or utters a written instrument in such a manner that it
22 purports to have been made:

- 23 (A) by another person;
- 24 (B) at another time;
- 25 (C) with different provisions; or
- 26 (D) by authority of one who did not give authority; or

27 (2) possesses more than one (1) written instrument knowing that
28 the written instruments were made in a manner that they purport
29 to have been made:

- 30 (A) by another person;
- 31 (B) at another time;
- 32 (C) with different provisions; or
- 33 (D) by authority of one who did not give authority;

34 commits counterfeiting, a Class D felony.

35 (b) A person who, with intent to defraud, makes, utters, or possesses
36 a written instrument in such a manner that it purports to have been
37 made:

- 38 (1) by another person;
- 39 (2) at another time;
- 40 (3) with different provisions; or
- 41 (4) by authority of one who did not give authority;

42 commits forgery, a ~~Class E~~ **Class D** felony.

43 (c) This subsection applies to a person who applies for a driver's
44 license (as defined in IC 9-13-2-48) **or a state identification card (as**
45 **issued under IC 9-24-16).** A person who:

46 (1) knowingly or intentionally uses a false or fictitious name or

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S



1 gives a false or fictitious address in an application for a driver's
2 license **or a state identification card** or for a renewal or a
3 duplicate of a driver's license **or a state identification card**; or
4 (2) knowingly or intentionally makes a false statement or conceals
5 a material fact or otherwise commits fraud in an application for a
6 driver's license **or a state identification card**;

7 commits application fraud, a Class D felony.

8 (d) This subsection applies to a person who applies for a state
9 identification card (as issued under IC 9-24-16): A person who:

10 (1) knowingly or intentionally uses false information in an
11 application for an identification card or for a renewal or duplicate
12 of an identification card; or

13 (2) knowingly or intentionally makes a false statement or
14 otherwise commits fraud in an application for an identification
15 card;

16 commits application fraud; a Class D felony.

17 SECTION 22. IC 35-43-5-3 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) A person who:

19 (1) being an officer, manager, or other person participating in the
20 direction of a credit institution, knowingly or intentionally
21 receives or permits the receipt of a deposit or other investment,
22 knowing that the institution is insolvent;

23 (2) knowingly or intentionally:

24 (A) makes a false or **intentionally** misleading written
25 statement; or

26 (B) **materially misrepresents:**

27 (i) **the identity of the person or another person;**

28 (ii) **a person as being a physician licensed under**
29 **IC 25-22.5; or**

30 (iii) **the identity or quality of property;**

31 with intent to obtain property, employment, or an educational
32 opportunity;

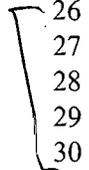
33 (3) misapplies entrusted property, property of a governmental
34 entity, or property of a credit institution in a manner that the
35 person knows is unlawful or that the person knows involves
36 substantial risk of loss or detriment to either the owner of the
37 property or to a person for whose benefit the property was
38 entrusted;

39 (4) knowingly or intentionally, in the regular course of business,
40 either:

41 (A) uses or possesses for use a false weight or measure or
42 other device for falsely determining or recording the quality or
43 quantity of any commodity; or

44 (B) sells, offers, or displays for sale or delivers less than the
45 represented quality or quantity of any commodity;

46 (5) with intent to defraud another person furnishing:



- 1 (A) electricity, gas, water, telecommunication, or any other
- 2 utility service;
- 3 (B) cable service;
- 4 (C) Internet service; or
- 5 (D) any service provided by cable, the Internet, or another
- 6 telecommunication service;

7 avoids a lawful charge for that service by scheme or device or by
 8 tampering with facilities or equipment of the person furnishing
 9 the service;

10 (6) with intent to defraud, misrepresents the identity of the person
 11 or another person or the identity or quality of property;

12 (7) (6) with intent to defraud an owner of a coin machine, deposits
 13 a slug in that machine;

14 (8) (7) with intent to enable the person or another person to
 15 deposit a slug in a coin machine, makes, possesses, or disposes of
 16 a slug; or

17 (9) (8) disseminates to the public an advertisement that the person
 18 knows is false, misleading, or deceptive, with intent to promote
 19 the purchase or sale of property or the acceptance of employment;

20 (10) with intent to defraud, misrepresents a person as being a
 21 physician licensed under IC 25-22.5; or

22 (11) knowingly and intentionally defrauds another person
 23 furnishing cable TV service by avoiding paying compensation for
 24 that service by any scheme or device or by tampering with
 25 facilities or equipment of the person furnishing the service;

26 commits deception, a Class A misdemeanor.

27 (b) A person who knowingly or intentionally falsely represents:

28 (1) any entity as a disadvantaged business enterprise (as
 29 defined in IC 5-16-6.5-1) or a women owned business
 30 enterprise (as defined in IC 5-16-6.5-3) in order to qualify for
 31 certification as such an enterprise under a program
 32 conducted by a public agency (as defined in IC 5-16-6.5-2)
 33 designed to assist disadvantaged business enterprises or
 34 women owned business enterprises in obtaining contracts with
 35 public agencies for the provision of goods and services; or

36 (2) an entity with which the person will subcontract all or part
 37 of a contract with a public agency (as defined in IC 5-16-6.5-2)
 38 as a disadvantaged business enterprise (as defined in
 39 IC 5-16-6.5-1) or a women owned enterprise (as defined in
 40 IC 5-16-16.5-3) in order to qualify for certification as an
 41 eligible bidder under a program conducted by a public agency
 42 designed to assist disadvantaged business enterprises or
 43 women owned enterprises in obtaining contracts with public
 44 agencies for the provision of goods and services;

45 commits a business enterprise deception, Class D felony.

46 (c) A person who knowingly or intentionally provides false



1 **information to a governmental entity to obtain a contract from the**
 2 **governmental entity commits a Class A misdemeanor. However,**
 3 **the offense is a Class D felony if the provision of false information**
 4 **results in financial loss to the governmental entity.**

5 (b) (d) In determining whether an advertisement is false,
 6 misleading, or deceptive under subsection (a)(9); (a)(8), there shall be
 7 considered, among other things, not only representations contained or
 8 suggested in the advertisement, by whatever means, including device
 9 or sound, but also the extent to which the advertisement fails to reveal
 10 material facts in the light of the representations.

11 SECTION 23. IC 35-43-5-4.5, AS ADDED BY P.L.181-2005,
 12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2012]: Sec. 4.5. (a) A person who, knowingly and with intent
 14 to defraud:

15 (1) makes, utters, presents, or causes to be presented to an insurer
 16 or an insurance claimant, a claim statement that contains false,
 17 incomplete, or misleading information concerning the claim;

18 (2) presents, causes to be presented, or prepares with knowledge
 19 or belief that it will be presented to or by an insurer, an oral, a
 20 written, or an electronic statement that the person knows to
 21 contain materially false information as part of, in support of, or
 22 concerning a fact that is material to:

23 (A) the rating of an insurance policy;

24 (B) a claim for payment or benefit under an insurance policy;

25 (C) premiums paid on an insurance policy;

26 (D) payments made in accordance with the terms of an
 27 insurance policy;

28 (E) an application for a certificate of authority;

29 (F) the financial condition of an insurer; or

30 (G) the acquisition of an insurer;

31 or conceals any information concerning a subject set forth in
 32 clauses (A) through (G);

33 (3) solicits or accepts new or renewal insurance risks by or for an
 34 insolvent insurer or other entity regulated under IC 27;

35 (4) removes:

36 (A) the assets;

37 (B) the record of assets, transactions, and affairs; or

38 (C) a material part of the assets or the record of assets,
 39 transactions, and affairs;

40 of an insurer or another entity regulated under IC 27, from the
 41 home office, other place of business, or place of safekeeping of
 42 the insurer or other regulated entity, or conceals or attempts to
 43 conceal from the department of insurance assets or records
 44 referred to in clauses (A) through (B); or

45 (5) diverts funds of an insurer or another person in connection
 46 with:



- 1 (A) the transaction of insurance or reinsurance;
- 2 (B) the conduct of business activities by an insurer or another
- 3 entity regulated under IC 27; or
- 4 (C) the formation, acquisition, or dissolution of an insurer or
- 5 another entity regulated under IC 27;

6 commits insurance fraud. Except as provided in subsection (b),
 7 insurance fraud is a Class D felony.

8 (b) An offense described in subsection (a) is a Class C felony if:

9 (1) the person who commits the offense has a prior unrelated
 10 conviction under this section; or

11 (2) the:

12 (A) value of property, services, or other benefits obtained or
 13 attempted to be obtained by the person as a result of the
 14 offense; or

15 (B) economic loss suffered by another person as a result of the
 16 offense;

17 is at least ~~two thousand five hundred dollars (\$2,500)~~ **fifty**
 18 **thousand dollars (\$50,000)**.

19 (c) A person who knowingly and with intent to defraud makes a
 20 material misstatement in support of an application for the issuance of
 21 an insurance policy commits insurance application fraud, a Class A
 22 misdemeanor.

23 SECTION 24. IC 35-43-5-5 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) A person who
 25 knowingly or intentionally issues or delivers a check, a draft, or an
 26 order on a credit institution for the payment of or to acquire money or
 27 other property, knowing that it will not be paid or honored by the credit
 28 institution upon presentment in the usual course of business, commits
 29 check deception, a Class A misdemeanor. However, the offense is a
 30 Class D felony if the amount of the check, draft, or order is at least ~~two~~
 31 ~~thousand five hundred seven hundred fifty~~ **thousand five hundred** dollars ~~(\$2,500)~~ **and the**
 32 ~~property acquired by the person was a motor vehicle.~~ **(\$750)**.

33 (b) An unpaid and dishonored check, a draft, or an order that has the
 34 drawee's refusal to pay and reason printed, stamped, or written on or
 35 attached to it constitutes prima facie evidence:

36 (1) that due presentment of it was made to the drawee for payment
 37 and dishonor thereof; and

38 (2) that it properly was dishonored for the reason stated.

39 (c) The fact that a person issued or delivered a check, a draft, or an
 40 order, payment of which was refused by the drawee, constitutes prima
 41 facie evidence that the person knew that it would not be paid or
 42 honored. In addition, evidence that a person had insufficient funds in
 43 or no account with a drawee credit institution constitutes prima facie
 44 evidence that the person knew that the check, draft, or order would not
 45 be paid or honored.

46 (d) The following two (2) items constitute prima facie evidence of



1 the identity of the maker of a check, draft, or order if at the time of its
2 acceptance they are obtained and recorded, either on the check, draft,
3 or order itself or on file, by the payee:

4 (1) Name and residence, business, or mailing address of the
5 maker.

6 (2) Motor vehicle operator's license number, Social Security
7 number, home telephone number, or place of employment of the
8 maker.

9 (e) It is a defense under subsection (a) if a person who:

10 (1) has an account with a credit institution but does not have
11 sufficient funds in that account; and

12 (2) issues or delivers a check, a draft, or an order for payment on
13 that credit institution;

14 pays the payee or holder the amount due, together with protest fees and
15 any service fee or charge, which may not exceed the greater of
16 twenty-seven dollars and fifty cents (\$27.50) or five percent (5%) (but
17 not more than two hundred fifty dollars (\$250)) of the amount due, that
18 may be charged by the payee or holder, within ten (10) days after the
19 date of mailing by the payee or holder of notice to the person that the
20 check, draft, or order has not been paid by the credit institution. Notice
21 sent in the manner set forth in IC 26-2-7-3 constitutes notice to the
22 person that the check, draft, or order has not been paid by the credit
23 institution. The payee or holder of a check, draft, or order that has been
24 dishonored incurs no civil or criminal liability for sending notice under
25 this subsection.

26 (f) A person does not commit a crime under subsection (a) when:

27 (1) the payee or holder knows that the person has insufficient
28 funds to ensure payment or that the check, draft, or order is
29 postdated; or

30 (2) insufficiency of funds or credit results from an adjustment to
31 the person's account by the credit institution without notice to the
32 person.

33 SECTION 25. IC 35-43-5-7 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) A person who
35 knowingly or intentionally:

36 (1) obtains public relief or assistance by means of impersonation,
37 fictitious transfer, false or misleading oral or written statement,
38 ~~fraudulent~~ ~~fraudulent~~ conveyance, or other fraudulent means;

39 (2) acquires, possesses, uses, transfers, sells, trades, issues, or
40 disposes of:

41 (A) an authorization document to obtain public relief or
42 assistance; or

43 (B) public relief or assistance;
44 except as authorized by law;

45 (3) uses, transfers, acquires, issues, or possesses a blank or
46 incomplete authorization document to participate in public relief

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1 or assistance programs, except as authorized by law;

2 (4) counterfeits or alters an authorization document to receive
3 public relief or assistance, or knowingly uses, transfers, acquires,
4 or possesses a counterfeit or altered authorization document to
5 receive public relief or assistance; or

6 (5) conceals information for the purpose of receiving public relief
7 or assistance to which ~~he~~ **the person** is not entitled;

8 commits welfare fraud, a Class A misdemeanor, except as provided in
9 subsection (b).

10 (b) The offense is:

11 (1) a Class D felony if

12 ~~(A) the amount of public relief or assistance involved is more~~
13 ~~than two hundred fifty dollars (\$250) seven hundred fifty~~
14 ~~dollars (\$750) but less than two thousand five hundred dollars~~
15 ~~(\$2,500); or~~

16 ~~(B) the amount involved is not more than two hundred fifty~~
17 ~~dollars (\$250) and the person has a prior conviction of welfare~~
18 ~~fraud under this section; fifty thousand dollars (\$50,000);~~
19 and

20 (2) a Class C felony if the amount of public relief or assistance
21 involved is ~~two thousand five hundred dollars (\$2,500) at least~~
22 ~~fifty thousand dollars (\$50,000). or more. regardless of whether~~
23 ~~the person has a prior conviction of welfare fraud under this~~
24 ~~section.~~

25 (c) Whenever a person is convicted of welfare fraud under this
26 section, the clerk of the sentencing court shall certify to the appropriate
27 state agency and the appropriate agency of the county of the defendant's
28 residence:

29 (1) ~~his~~ **the person's** conviction; and

30 (2) whether the defendant is placed on probation and restitution
31 is ordered under IC 35-38-2.

32 SECTION 26. IC 35-43-5-7.1, AS AMENDED BY P.L.1-2006,
33 SECTION 531, IS AMENDED TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2012]: Sec. 7.1. (a) Except as provided in
35 subsection (b), a person who knowingly or intentionally:

36 (1) files a Medicaid claim, including an electronic claim, in
37 violation of IC 12-15;

38 (2) obtains payment from the Medicaid program under IC 12-15
39 by means of a false or misleading oral or written statement or
40 other fraudulent means;

41 (3) acquires a provider number under the Medicaid program
42 except as authorized by law;

43 (4) alters with the intent to defraud or falsifies documents or
44 records of a provider (as defined in 42 CFR 1000.30) that are
45 required to be kept under the Medicaid program; or

46 (5) conceals information for the purpose of applying for or





1 receiving unauthorized payments from the Medicaid program;
2 commits Medicaid fraud, a Class D felony.

3 (b) The offense described in subsection (a) is a Class C felony if the
4 fair market value of the offense is at least ~~one hundred thousand dollars~~
5 ~~(\$100,000)~~; **fifty thousand dollars (\$50,000)**.

6 SECTION 27. IC 35-43-5-7.2 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7.2. (a) Except as
8 provided in subsection (b), a person who knowingly or intentionally:

- 9 (1) files a children's health insurance program claim, including an
10 electronic claim, in violation of IC 12-17.6;
- 11 (2) obtains payment from the children's health insurance program
12 under IC 12-17.6 by means of a false or misleading oral or written
13 statement or other fraudulent means;
- 14 (3) acquires a provider number under the children's health
15 insurance program except as authorized by law;
- 16 (4) alters with intent to defraud or falsifies documents or records
17 of a provider (as defined in 42 CFR 1002.301) that are required
18 to be kept under the children's health insurance program; or
- 19 (5) conceals information for the purpose of applying for or
20 receiving unauthorized payments from the children's health
21 insurance program;

22 commits insurance fraud, a Class D felony.

23 (b) The offense described in subsection (a) is a Class C felony if the
24 fair market value of the offense is at least ~~one hundred thousand dollars~~
25 ~~(\$100,000)~~; **fifty thousand dollars (\$50,000)**.

26 SECTION 28. IC 35-43-5-8, AS AMENDED BY P.L.57-2006,
27 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2012]: Sec. 8. (a) A person who knowingly executes, or
29 attempts to execute, a scheme or artifice:

- 30 (1) to defraud a state or federally chartered or federally insured
31 financial institution; or
- 32 (2) to obtain any of the money, funds, credits, assets, securities,
33 or other property owned by or under the custody or control of a
34 state or federally chartered or federally insured financial
35 institution by means of false or fraudulent pretenses,
36 representations, or promises;

37 commits **bank fraud**, a ~~Class C~~ **Class D** felony. **However, the offense**
38 **is a Class C felony if the total amount of property obtained is at**
39 **least fifty thousand dollars (\$50,000).** ~

40 (b) As used in this section, the term "state or federally chartered or
41 federally insured financial institution" means:

- 42 (1) an institution with accounts insured by the Federal Deposit
43 Insurance Corporation;
- 44 (2) a credit union with accounts insured by the National Credit
45 Union Administration Board;
- 46 (3) a federal home loan bank or a member, as defined in Section



1 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), as in
 2 effect on December 31, 1990, of the Federal Home Loan Bank
 3 System; or
 4 (4) a bank, banking association, land bank, intermediate credit
 5 bank, bank for cooperatives, production credit association, land
 6 bank association, mortgage association, trust company, savings
 7 bank, or other banking or financial institution organized or
 8 operating under the laws of the United States or of the state.

9 The term does not include a lender licensed under IC 24-4.5.

10 SECTION 29. IC 35-43-5-9 IS REPEALED [EFFECTIVE JULY 1,
 11 2012]. Sec. 9: (a) A person who knowingly or intentionally falsely
 12 represents any entity as a disadvantaged business enterprise (as defined
 13 in IC 5-16-6.5-1) or a women owned business enterprise (as defined in
 14 IC 5-16-6.5-3) in order to qualify for certification as such an enterprise
 15 under a program conducted by a public agency (as defined in
 16 IC 5-16-6.5-2) designed to assist disadvantaged business enterprises or
 17 women owned business enterprises in obtaining contracts with public
 18 agencies for the provision of goods and services commits a Class D
 19 felony:

20 (b) A person who knowingly or intentionally falsely represents an
 21 entity with which the person will subcontract all or part of a contract
 22 with a public agency (as defined in IC 5-16-6.5-2) as a disadvantaged
 23 business enterprise (as defined in IC 5-16-6.5-1) or a women owned
 24 enterprise (as defined in IC 5-16-6.5-3) in order to qualify for
 25 certification as an eligible bidder under a program conducted by a
 26 public agency designed to assist disadvantaged business enterprises or
 27 women owned enterprises in obtaining contracts with public agencies
 28 for the provision of goods and services commits a Class D felony.

29 SECTION 30. IC 35-43-5-11 IS REPEALED [EFFECTIVE JULY
 30 1, 2012]. Sec. 11: A person who knowingly or intentionally provides
 31 false information to a governmental entity to obtain a contract from the
 32 governmental entity commits a Class A misdemeanor. However, the
 33 offense is a Class D felony if the provision of false information results
 34 in financial loss to the governmental entity.

35 SECTION 31. IC 35-43-5-12 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) As used in this
 37 section, "financial institution" refers to a state or federally chartered
 38 bank, savings bank, savings association, or credit union.

39 (b) A person who knowingly or intentionally obtains property,
 40 through a scheme or artifice, with intent to defraud:

- 41 (1) by issuing or delivering a check, a draft, an electronic debit,
 42 or an order on a financial institution:

 - 43 (A) knowing that the check, draft, order, or electronic debit
 44 will not be paid or honored by the financial institution upon
 45 presentment in the usual course of business;
 - 46 (B) using false or altered evidence of identity or residence;



1 (C) using a false or an altered account number; or
 2 (D) using a false or an altered check, draft, order, or electronic
 3 instrument;
 4 (2) by:
 5 (A) depositing the minimum initial deposit required to open an
 6 account; and
 7 (B) either making no additional deposits or making insufficient
 8 additional deposits to insure debits to the account; or
 9 (3) by opening accounts with more than one (1) financial
 10 institution in either a consecutive or concurrent time period;
 11 commits check fraud, a Class D felony. However, the offense is a Class
 12 C felony if the person has a prior unrelated conviction under this
 13 section or the aggregate amount of property obtained is at least
 14 ~~twenty-five thousand dollars (\$25,000):~~ **fifty thousand dollars**
 15 **(\$50,000).**

16 SECTION 32. IC 35-43-5-18, AS ADDED BY P.L.171-2005,
 17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2012]: Sec. 18. (a) A person who knowingly or intentionally
 19 possesses a:

20 (1) device; or
 21 (2) substance;
 22 designed or intended to be used to interfere with a drug or alcohol
 23 screening test commits possession of a device or substance used to
 24 interfere with a drug or alcohol screening test, a Class B misdemeanor.

25 (b) A person who interferes with or attempts to interfere with
 26 a drug or alcohol screening test by:

27 (1) using a:
 28 (A) device; or
 29 (B) substance;
 30 (2) substituting a human bodily substance that is tested in a
 31 drug or alcohol screening test; or
 32 (3) adulterating a substance used in a drug or alcohol
 33 screening test;
 34 commits interfering with a drug or alcohol screening test, a Class
 35 B misdemeanor.

36 SECTION 33. IC 35-43-5-19 IS REPEALED [EFFECTIVE JULY
 37 1, 2012]. Sec. 19. A person who interferes with or attempts to interfere
 38 with a drug or alcohol screening test by:

39 (1) using a:
 40 (A) device; or
 41 (B) substance;
 42 (2) substituting a human bodily substance that is tested in a drug
 43 or alcohol screening test; or
 44 (3) adulterating a substance used in a drug or alcohol screening
 45 test;
 46 commits interfering with a drug or alcohol screening test, a Class B



1 misdemeanor.

2 SECTION 34. IC 35-43-5-20, AS ADDED BY P.L.81-2008,
3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 20. (a) As used in this section, "inmate" means a
5 person who is confined in:

6 (1) the custody of:

7 (A) the department of correction; or

8 (B) a sheriff;

9 (2) a county jail; or

10 (3) a secure juvenile facility.

11 (b) An inmate **in pretrial status** who, with the intent of obtaining
12 money or other property from a person who is not an inmate, knowingly
13 or intentionally:

14 (1) makes a misrepresentation to a person who is not an inmate
15 and obtains or attempts to obtain money or other property from
16 the person who is not an inmate; or

17 (2) obtains or attempts to obtain money or other property from the
18 person who is not an inmate through a misrepresentation made by
19 another person;

20 commits inmate fraud, a ~~Class C~~ **Class D** felony. **However, the offense**
21 **is a Class C felony if the inmate is serving the sentence for a crime**
22 **of which the inmate has been convicted, or if the property that was**
23 **the subject of the fraud was at least fifty thousand dollars**
24 **(\$50,000).**



Provides that recruiting, harboring, or transporting another person to participate in sexual conduct by force, threat of force, or fraud constitutes human trafficking. Provides that a person who recruits, harbors, or transports a child less than 16 years of age with the intent of engaging the child in forced labor, involuntary servitude, prostitution, or sexual conduct commits promotion of human trafficking of a minor, a Class B felony. Prohibits a person at least 18 years of age from selling or transferring custody of a child less than 16 for the purpose of prostitution or participation in sexual conduct.

1 SECTION 1. IC 11-8-8-4.5, AS ADDED BY P.L.216-2007, SECTION 12. IS
2 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) Except
3 as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person
4 convicted of any of the following offenses:

- 5 (1) Rape (IC 35-42-4-1).
- 6 (2) Criminal deviate conduct (IC 35-42-4-2).
- 7 (3) Child molesting (IC 35-42-4-3).
- 8 (4) Child exploitation (IC 35-42-4-4(b)).
- 9 (5) Vicarious sexual gratification (including performing sexual conduct in the
10 presence of a minor) (IC 35-42-4-5).
- 11 (6) Child solicitation (IC 35-42-4-6).
- 12 (7) Child seduction (IC 35-42-4-7).
- 13 (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC
14 35-42-4-9), unless:
 - 15 (A) the person is convicted of sexual misconduct with a minor as a Class
16 C felony;
 - 17 (B) the person is not more than:
 - 18 (i) four (4) years older than the victim if the offense was
19 committed after June 30, 2007; or
 - 20 (ii) five (5) years older than the victim if the offense was
21 committed before July 1, 2007; and
 - 22 (C) the sentencing court finds that the person should not be required to
23 register as a sex offender.
- 24 (9) Incest (IC 35-46-1-3).
- 25 (10) Sexual battery (IC 35-42-4-8).
- 26 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of
27 age, and the person who kidnapped the victim is not the victim's parent or
28 guardian.
- 29 (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18)
30 years of age, and the person who confined or removed the victim is not the
31 victim's parent or guardian.
- 32 (13) Possession of child pornography (IC 35-42-4-4(c)).
- 33 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.

1 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less
2 than eighteen (18) years of age.

3 (16) Sexual trafficking of a minor (~~IC 35-42-3.5-1(b)~~): **(IC 35-42-3.5-1(c))**.

4 (17) Human trafficking (~~IC 35-42-3.5-1(c)(3)~~) **(IC 35-42-3.5-1(d)(3))** if the
5 victim is less than eighteen (18) years of age.

6 (18) An attempt or conspiracy to commit a crime listed in subdivisions (1)
7 through (17).

8 (19) A crime under the laws of another jurisdiction, including a military court,
9 that is substantially equivalent to any of the offenses listed in subdivisions (1)
10 through (18).

11 (b) The term includes:

12 (1) a person who is required to register as a sex offender in any jurisdiction; and

13 (2) a child who has committed a delinquent act and who:

14 (A) is at least fourteen (14) years of age;

15 (B) is on probation, is on parole, is discharged from a facility by the
16 department of correction, is discharged from a secure private facility (as
17 defined in IC 31-9-2-115), or is discharged from a juvenile detention
18 facility as a result of an adjudication as a delinquent child for an act that
19 would be an offense described in subsection (a) if committed by an
20 adult; and

21 (C) is found by a court by clear and convincing evidence to be likely to
22 repeat an act that would be an offense described in subsection (a) if
23 committed by an adult.

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

27 SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.216-2007, SECTION 13, IS
28 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as
29 provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a
30 person convicted of any of the following offenses:

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

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

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

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

35 (5) Vicarious sexual gratification (including performing sexual conduct in the
36 presence of a minor) (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 misconduct with a minor as a Class A, Class B, or Class C felony (IC
40 35-42-4-9), unless:

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

32 (b) The term includes:

- 33 (1) a person who is required to register as a sex or violent offender in any
34 jurisdiction; and
- 35 (2) a child who has committed a delinquent act and who:
36 (A) is at least fourteen (14) years of age;
37 (B) is on probation, is on parole, is discharged from a facility by the
38 department of correction, is discharged from a secure private facility (as
39 defined in IC 31-9-2-115), or is discharged from a juvenile detention
40 facility as a result of an adjudication as a delinquent child for an act that

1 would be an offense described in subsection (a) if committed by an
2 adult; and
3 (C) is found by a court by clear and convincing evidence to be likely to
4 repeat an act that would be an offense described in subsection (a) if
5 committed by an adult.

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

9 SECTION 3. IC 35-42-3.5-1, AS ADDED BY P.L.173-2006, SECTION 52, IS
10 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person
11 who, **by force, threat of force, or fraud**, knowingly or intentionally recruits, harbors, or
12 transports another person: ~~by force, threat of force, or fraud:~~

13 (1) to engage the other person in:

14 (A) forced labor; or

15 (B) involuntary servitude; or

16 (2) to force the other person into:

17 (A) marriage; or

18 (B) prostitution; or

19 (C) **participating in sexual conduct (as defined by IC 35-42-4-4);**

20 commits promotion of human trafficking, a Class B felony.

21 (b) **A person who knowingly or intentionally recruits, harbors, or transports a child**
22 **less than sixteen (16) years of age with the intent of:**

23 (1) **engaging the child in:**

24 (A) **forced labor; or**

25 (B) **involuntary servitude; or**

26 (2) **inducing or causing the child to:**

27 (A) **engage in prostitution; or**

28 (B) **participate in sexual conduct (as defined by IC 35-42-4-4);**

29 **commits promotion of human trafficking of a minor, a Class B felony. It is not a defense to**
30 **a prosecution under this subsection that the child consented to engage in prostitution or to**
31 **participate in sexual conduct.**

32 (b) A parent, guardian, or custodian of (c) **A person who is at least a child less than**
33 **eighteen (18) years of age who knowingly or intentionally sells or transfers custody of the a child**
34 **less than sixteen (16) years of age** for the purpose of prostitution **or participating in sexual**
35 **conduct (as defined by IC 35-42-4-4)** commits sexual trafficking of a minor, a Class A felony.

36 (c) (d) A person who knowingly or intentionally pays, offers to pay, or agrees to pay
37 money or other property to another person for an individual who the person knows has been
38 forced into:

39 (1) forced labor;

40 (2) involuntary servitude; or

1
2
3
4

(3) prostitution;
commits human trafficking, a Class C felony.

SECTION 4. An emergency is declared for this act.

		2007	2008	2009	2010
trial courts	Alcohol and Drug Countermeasures Fee County	\$3,588,178	\$4,038,028	\$3,291,404	\$3,240,242
	Drug Abuse, Prosecution, Interdiction, and Correction Fee	<u>\$2,305,699</u>	<u>\$1,986,638</u>	<u>\$1,375,607</u>	<u>\$1,542,833</u>
	totals	<u>\$5,893,877</u>	<u>\$6,024,666</u>	<u>\$4,667,011</u>	<u>\$4,783,075</u>
	counties reporting Alc & Countermeasures Fee	77	79	75	79
	counties reporting Drug Abuse etc. Fee	61	63	68	72

		2007	2008	2009	2010
city and town courts	Alcohol and Drug Countermeasures Fee County	\$339,093	\$298,036	\$257,053	\$242,253
	Drug Abuse, Prosecution, Interdiction, and Correction Fee	<u>\$192,012</u>	<u>\$190,726</u>	<u>\$351,691</u>	<u>\$440,501</u>
	totals	<u>\$531,105</u>	<u>\$488,762</u>	<u>\$608,744</u>	<u>\$682,754</u>
	counties reporting Alc & Countermeasures Fee	10	10	9	6
	counties reporting Drug Abuse etc. Fee	7	7	10	10

Grand Totals	<u>\$6,424,982</u>	<u>\$6,513,428</u>	<u>\$5,275,755</u>	<u>\$5,465,829</u>
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33-37-5-10 alcohol and drug countermeasures fee

Sec. 10. (a) The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars (\$200) in each action in which:

(1) a person is found to have:

(A) committed an offense under IC 9-30-5;

(B) violated a statute defining an infraction under IC 9-30-5; or

(C) been adjudicated a delinquent for an act that would be an offense under IC 9-30-5, if committed by an adult; and

(2) the person's driving privileges are suspended by the court or the bureau of motor vehicles as a result of the finding.

(b) The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars (\$200) in each action in which:

(1) a person is charged with an offense under IC 9-30-5; and

(2) by a plea agreement or an agreement of the parties that is approved by the court:

(A) judgment is entered for an offense under:

(i) IC 9-21-8-50;

(ii) IC 9-21-8-52;

(iii) IC 7.1-5-1-3; or

(iv) IC 7.1-5-1-6; and

(B) the defendant agrees to pay the alcohol and drug counter measures fee.

As added by P.L.98-2004, SEC.16.

33-37-5-9 drug abuse, prosecution, interdiction, and correction fee

33-37-5-9Year Enacted 2004; Year Amended 2004

Sec. 9. (a) This section applies to criminal actions.

(b) The court shall assess a drug abuse, prosecution, interdiction, and correction fee of at least two hundred dollars (\$200) and not more than one thousand dollars (\$1,000) against a person convicted of an offense under IC 35-48-4.

(c) In determining the amount of the drug abuse, prosecution, interdiction, and correction fee assessed against a person under subsection (b), a court shall consider the person's ability to pay the fee.

(d) The clerk shall collect the drug abuse, prosecution, interdiction, and correction fee set by the court when a person is convicted of an offense under IC 35-48-4.

As added by P.L.98-2004, SEC.16.

33-37-7-2 distribution (c)

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

Chapter 11. County Drug Free Community Fund

5-2-11

5-2-11-0.5

5-2-11-0.5 Year Enacted 2006; Year Amended 2006

Sec. 0.5. As used in this chapter, "criminal justice services and activities" means programs that assist:

(1) law enforcement agencies;

(2) courts;

(3) correctional facilities;

(4) programs that offer probation services; and

(5) community corrections programs;

with individuals who have alcohol or drug addictions and who are suspected of having committed a felony or misdemeanor, have been charged with a felony or misdemeanor, or have been convicted of a felony or misdemeanor.

As added by P.L.44-2006, SEC.4.

5-2-11-1

5-2-11-1Year Enacted 1990; Year Amended 1990

Sec. 1. As used in this chapter, "fund" refers to a county drug free community fund established by this chapter.

As added by P.L.12-1990, SEC.3.

5-2-11-1.3

5-2-11-1.3Year Enacted 1995; Year Amended 1995

Sec. 1.3. As used in this chapter, "intervention" means:

(1) activities performed to identify persons in need of addiction treatment services; and

(2) referring persons to or enrolling persons in addiction treatment programs.

As added by P.L.62-1995, SEC.1.

5-2-11-1.6

5-2-11-1.6Year Enacted 2006; Year Amended 2006

Sec. 1.6. As used in this chapter, "local coordinating council" means a countywide citizen body approved and appointed by the commission for a drug free Indiana to plan, monitor, and evaluate comprehensive local alcohol and drug abuse plans.

As added by P.L.44-2006, SEC.5.

5-2-11-1.8

5-2-11-1.8Year Enacted 2006; Year Amended 2006

Sec. 1.8. As used in this chapter, "prevention" means the anticipatory process that prepares and supports an individual and programs with the creation and reinforcement of healthy behaviors and lifestyles.

As added by P.L.44-2006, SEC.6.

5-2-11-1.9

5-2-11-1.9Year Enacted 2006; Year Amended 2006

Sec. 1.9. As used in this chapter, "prevention initiative" means a program that is designed to decrease alcohol or drug use.

As added by P.L.44-2006, SEC.7.

5-2-11-2

5-2-11-2Year Enacted 1990; Year Amended 2006

Sec. 2. A county drug free community fund is established in each county to promote comprehensive local alcohol and drug abuse prevention initiatives by supplementing local funding for treatment, education, and criminal justice efforts. The fund consists of amounts deposited under IC 33-37-7-2(c) and IC 33-37-7-8(e).

As added by P.L.12-1990, SEC.3. Amended by P.L.98-2004, SEC.57; P.L.1-2006, SEC.91.

5-2-11-3

5-2-11-3Year Enacted 1990; Year Amended 1990

Sec. 3. The county auditor shall administer the fund. Expenditures from the fund shall be made in accordance with appropriations made under section 5 of this chapter.

As added by P.L.12-1990, SEC.3.

5-2-11-4

5-2-11-4Year Enacted 1990; Year Amended 1990

Sec. 4. Money in the fund at the end of a fiscal year does not revert to any other fund.

As added by P.L.12-1990, SEC.3.

5-2-11-5

5-2-11-5Year Enacted 1990; Year Amended 2007

Sec. 5. (a) As used in this section, "commission" means the commission for a drug free Indiana established by IC 5-2-6-16.

(b) Subject to subsections (c) and (d), a county fiscal body shall annually appropriate from the fund amounts allocated by the county legislative body for the use of persons, organizations, agencies, and political subdivisions to carry out recommended actions contained in a comprehensive drug free

communities plan submitted by the local coordinating council and approved by the commission as follows:

(1) For persons, organizations, agencies, and political subdivisions to provide prevention and education services, at least twenty-five percent (25%) of the money in the fund.

(2) For persons, organizations, agencies, and political subdivisions to provide intervention and treatment services, at least twenty-five percent (25%) of the money in the fund.

(3) For persons, organizations, agencies, and political subdivisions to provide criminal justice services and activities, at least twenty-five percent (25%) of the money in the fund.

(4) A county fiscal body shall allocate the remaining twenty-five percent (25%) of the money in the fund to persons, organizations, agencies, and political subdivisions to provide services and activities under subdivisions (1) through (3) based on the comprehensive drug free communities plan submitted by the local coordinating council and approved by the commission.

(c) In the comprehensive drug free communities plan, the local coordinating council shall determine the amount of funds the county fiscal body shall appropriate to implement the objectives approved in the comprehensive drug free communities plan.

(d) If the comprehensive drug free communities plan is not approved by the commission, the county fiscal body may not appropriate any funds at the request of the local coordinating council or any other local entity.

(e) If funds are allocated by a county legislative body under subsection (b) and the commission has not approved the comprehensive drug free communities plan for the county, the commission may:

(1) approve and appoint a new local coordinating council for the county;

(2) freeze funds allocated by the county legislative body; or

(3) reevaluate the comprehensive drug free communities plan.

As added by P.L.12-1990, SEC.3. Amended by P.L.50-1993, SEC.4; P.L.62-1995, SEC.2; P.L.44-2006, SEC.8; P.L.26-2007, SEC.1.

5-2-11-6

5-2-11-6 Year Enacted 1990; Year Amended 1990

Sec. 6. The fund may not be used to replace other funding for alcohol and drug abuse services provided to the county.

As added by P.L.12-1990, SEC.3.